IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 17144 of 2004

&

W.P.M.P.No.2461 of 2005

&

W.P.No.19354 of 2004

W.P.No.17144/2004

Between:

1 K. Shyam Kumar, S/o. Joga Rao, 11370319
R/o. Ram Bajena Street, Ponduru, Srikakulam District.
2 R. Satya Rao, S/o. Suryanarayana, 11193147
R/o. Naidu Street, Ponduru, Srikakulam District.
3 B. Bhaskara ao, S/o. Suryanarayana, 11397710
R/o. Duppalapadu Village, Jargingi Post, Kotabomalli Mandal, Srikakulam District.
4 G.Gopala Rao, S/o. Biraji, 11499501
R/o. Peddasena Village, Pursarampuram Post,
Tekkali Mandal, Srikakulam District.
5 N. Purushotam, S/o. Narayana, 11348565
R/o. Renuka Colony, Sompet, Srikakulam District.
6 S. Bhaskara Rao, S/o. Appa Rao, 11213583
R/o. Sirasapalli Village, N.R. Peta Post, Anakapalli Mandal,
Visakhapatnam District.
7 K. Kranthi Kumar, S/o. Ramulu, 11312305
Pallisaradha Village (Via), Kasibugga, Srikakulam District.

8 V. Ramakrishna, S/o. Satya Naidu, 11162339
R/o. Vechakpuram Village, G.V. Palem Post, L. Kota Mandal, Vizianagaram District.

9 R. Suresh Kumar, S/o. Jagan Mohan, 11334548
R/o. Danampeta Street, Itchapuram Post, Srikakulam District.

10 G. Govinda Rao, S/o. Suryanarayana, 11018916
R/o. Plot No. 16, Nurses Colony, Near Old Employment Office,
Srikakulam, Srikakulam District.

11 P. Dhanunjaya Rao, S/o. Appalaswamy, 11449365
R/o. Bhagavanpuram Village, Tekkali Post & Mandal, Srikakulam District.

12 M. Rajendra Naidu, S/o. Masali Naidu, 11048393
R/o. Deergasi Village, Polaki Mandal, Srikakulam District.

13 B. Ravi, S/o. Malleswara Rao, 11125198
R/o. Satyavaram Village, Narasannapeta Mandal,
Srikakulam District.

14 P. Madhana Mohana Rao, S/o. Krishnarao, 11515550
R/o. Nadimi Street, Brahmana Tarla Post, Srikakulam District.

15 A. Venkata Rao, S/o. Dandaji, 11460271
R/o. Peddaveedhi, Brahmana Tarla Post,
Srikakulam District.

16 N.Rambabu, s/o Apparao,
r/o Viswanadhapuram, Salur Post, Vizianagaram District.
11116004

17 T.Jagannadham, s/o Narayana,
r/o Sambura Post, Makkuva Mandal,
Vizianagaram District 11170108

18 T.Appalanarayana, s/o Ramulu,
r/o Telaga Street, Nelli Marla, Vizianagaram District.
11069294

19 T.Shanmukha Rao, s/o Ram Murthy,
r/o Chinnayyapeta Village, Tarlam Post, Vizianagaram District.
11349739

20 Chintapalli Satya Rao, s/o Surya Rao
r/o Gowdu Street, Bobbili, Vizianagaram District.
11100149

21 Bodda Ganeswara Rao, s/o Bullayya,
r/o Peda Gummuluru Post, S.Rayavaram Mandal,
Visakhapatnam District. 11094656

22 Srinu Nagemalla, s/o Chandrayya,
r/o H.No.1-1-119/7/A/3, Pumping Well, Thallagadda, Suryapet,
Nalgonda District. 11461641

23 V.Harikumar, s/o Siva Prasad,
r/o Balajinagar, Suryapet, Nalgonda District.
1144336

24 Ch.Srinivas, s/o Mallikarjun,
r/o H.No.1-7-125/12/A1, Opp:Triveni School, Suryapet,
Nalgonda District. 11168638

25 P.Krishna Murthy, s/o Veerayya,
r/o Thuljaraopeta Village, Vallabhapuram Post, Chirmla Mandal,
Nalgonda District. 11472950

26 R. Ramesh, S/o. Bikam, 11451425
R/o. Hussain Bagh Post, Mathey Mandal, Nalgonda District.

27 M. Ramachandra Reddy, S/o. Narsi Reddy, 11489633
R/o. H.No. 2-43, Chityal Post & Mandal, Nalgonda District.
28 P. Venkanna, S/o. Veerabhadram,
R/o. Apparajupalli Village, Gudur Mandal, Warangal District.
29 D. Mahendra, S/o. Paramathma,
R/o. Tirumalagiri Village & Mandal, Nalgonda District.
30 Ch. Prasad, S/o. Lakshmana Rao,
R/o. H.No. 5-4-6, Basina Street, Vizianagaram.
31 Abdul Azeem, S/o.Azeem,
R/o. Arundatinagar, Vizianagaram.
32 K. Srinivas, S/o. Ramaiah, 11086263
R/o. H.No. 2-2-18, Mallial Post, Karimnagar District.
33 A. Suresh Kumar, S/o. Ramana,
R/o. Balajinagar, Vizianagaram.
34 R. Kameswara Rao, S/o. Simhadri, 11363978
R/o. Gollamakannapalli, Palasa Mandal, Srikakulam District.
35 Y. Ganapathi, S/o. Suryanaraya, 11358834
R/o Vanjangi Village & Post, Amadalavalsa Mandal, Srikakulam District.
36 B. Ravikumar, S/o.Jairam,
R/o. Vizianagaram.
37 K. Syam Kumar, S/o. N. Ramudu, 11081220
R/o. Chowdavaram, Visakhapatnam District.
38 M. Venkateswara Rao, S/o Bhaskara Rao, 11124875
R/o. Chowdavaram, Visakhapatnam District.
39 E. Praveen Kumar, S/o. Ramana Murthy,
R/o. Santhinagar, Chowdavaram,
Visakhapatnam District.
40 J. Subrahmanyam, S/o. Jagannadha Rao, 11161156
R/o.V. Singavaram, Visakhapatnam District.
41 J. Venkata Ramana, S/o. Simmayya, 11136082
R/o.D.B. Patnam Village, Visakhapatnam District.
42 J. Bhanmukha Rao, S/o. Annath Rao, 11552519
Jadabapeta Village, Srikakulam District.
43 V. Sai Suryanarayana, S/o. Ramarao, 11457130
R/o. Vadapallivari Colony, Shanthinagar, Chowdavaram,
Visakhapatnam District.
44 N.B.P. Vijayakumar, S/o. Appa Rao, 11166452
R/o. Chowdavaram, Visakhapatnam District.
45 P. Venkata Ramana Murthy, S/o. Praveena Kumar, 11222666
R/o. Chowdavaram, Visakhapatnam District.
46 Reddi Siva Prasad, S/o. Krishna, 11166436
R/o. Chowdavaram, Visakhapatnam District.
47 D. Satyanarayana, S/o. D. Nooka Raju, 11141603
R/o. Chowdavaram, Visakhapatnam District.
48 N.V. Ramana Murthy, S/o. Gopalacharyulu, 11484649
Tekkali, Srikakulam District.
49 U. Ravi Kumar, S/o. U.V.R. Murthy, 11331589
R/o. Srikakulam, Srikakulam District.
50 J. Kameswara Rao, S/o. Ramana Rao,
R/o. Srikakulam, Srikakulam District.
51 P. Ashok, S/o. G.V.B. Sastry, 11289712
R/o. Srikakulam, Srikakulam District.
52 G. Vijayabhaskara Rao, S/o. Sitarama Rao, 11358453

R/o. Srikakulam, Srikakulam District.

53 Ch. Kasi, S/o. Raju, 11023849
R/o. Tadepalli Gudem, West Godavari District.

54 M. Uma Mahesh, S/o Mahesh, 11449273
R/o. Srikakulam, Srikakulam District.

55 I. Hema Sundar, S/o. Parvathamma, 11038890
R/o. Srikakulam, Srikakulam District.

56 J. Ramesh, S/o. Murlaidhara Rao, 11484637
R/o. Srikakulam, Srikakulam District.

57 P. Balamurali Krishna, S/o. Chandra Sekhara Rao,
R/o. Srikakulam.

58 P. Venkata Rao, S/o. Srirama Murthy, 11125395
Amudalavalasa, Srikakulam.

59 K. Ravi Kumar, S/o. Raja Rao, 11073232
R/o. Srikakulam, Srikakulam District.

60 M. Ravindra, S/o. Ramaiah,11171914
R/o. Visakhapatnam

61 Shaik Ashif Pasha, S/o. Pasha, 11449034
R/o. Gopalapatnam, Visakhapatnam District.

62 B.V. Ramakrishna, S/o. Ramana Murthy, 11493587
R/o. Dondaparthy, Visakhapatnam District.

63 K. Srinivasa Rao, S/o. Appa Rao, 11511043
R/o. Visakhapatnam.

64 B.V.M.R. Kumar, S/o. Ramana,
R/o. Kothavalasa Village, Vizianagaram District.

65 N.V.V.G. Ramakrishna, S/o. Venkateswara Rao, 11151223
R/o. Tanuku, West Godavari District.

66 K. Tirupathi Rao, S/o. Chitti Naidu, 11130903
R/o. Hyderabad.

67 P.R. Kamal Khan, S/o. Rahaman Khan,
R/o. Vijayawada, Krishna District.

68 Pathi Pavan Kumar, S/o. Ramana Kumar,
Madhunagar.

69 S. Hanumantha Prasad, S/o. Prasad,
R/o. Suryapet, Nalgonda.

70 S.V.S.Sastry, S/o. G.Jagannadha Rao,

71 Pogiri Ramana Rao, S/o. P.Ramulu,
Buridi Kancharam, Ponduru Mandalam,
Srikakulam.

72 K.Rambabu, S/o. Chinnaiah,
Hyderabad.

73 Ch. Sudhakar, S/o. Venkata Rao
Seethanagaram (SR), Vizianagaram District.

74 K.Suman Babu,
Kovvur Mandal, Nellore District.

75 K.Chandra Sekhar, S/o. K.Siddaiah,
Gudikal Village & Post, Yemmiganoorl Kurnool - 518 364.

76 A.V.A. Dantheswara Rao, S/o. A.Venkata Rao
Naidu Thota, Vepagunta, Visakhapatnam-532029.

77 S.V.S Narayana Murthy, S/o. Apparao,
Gami Mandal, Vizianagaram District.

78 Siriki Yerna Rao S/o. Sanyasi Naidu,
Gami Mandal, Vizianagaram District.

79 B.Suri Banu S/o. Swami Naidu
Vizianagaram District.
80 Kolla Sridhar, S/o. Venkata Rao
L.Kota Mandal, Vizianagaram District.
81 Yernagula Vijaya Kumar, S/o. Simhadri,C/o. Sanjeeva Rao,
D.No.3-16, L.Kota Post and Mandal Vizianagaram District.
82 B.Satya Rao,
Vizianagaram District.
83 Muppana Suresh Kumar, S/o. Late M.Das,
Near Railway BSI Office, Srungavarupukota,
Vizianagaram District.
84 Venkumahanti Kiran Krishna, S/o.V.Chadra Sekhara Rao,
Srungavarapu Kota Post, Vizianagaram District.
85 V.Satish, S/o. Nageswara Rao,
Srungavarapu Kota, Vizianagaram District.
86 K.Srinivasa Rao, S/o. Appala Konda,
Srungavarapu Kota, Vizianagaram District.
87 M.Suryanarayana, S/o. Late Latchanna,
Vizianagaram District.
88 I.V.Sreerama Murthy S/o. Ramanuja Charyulu,
Kothavalasa, Vizianagaram District.
89 B.A.Satyanarayana, S/o. Chinna
Vizianagaram District.
90 Gedela Venkata Rao, S/o. Sanyasi
Vizianagaram District.
91 Maki Reddy Mohan, S/o. Krishna
Vizianagaram District.
92 K.Ravindra, S/o. Gattiya,
Ramagundam Mandal, Karimnagar district.
93 B.Ventateswara Naidu S/o. Balaji Naidu
Nowluru Post, Mangalagiri Mandal,
Guntur District.
94 G.Kasi Viswanath,
Visakhapatnam District.
95 K.Veera Vasantha Rao, S/o. Somsiliya,
Pedapalli Gollapalem, Pedapalli Post, Nagaram Mandal,
Guntur District.
96 P.Ramaiah, S/o. Ramaiah,
Prakasam District.
97 N.Ravindra
D.No.B-21, Ship Yard New Colony, Visakhapatnam.
98 D.Suresh Babu, S/o. Venkataya,
Kurnool Districtr.
99 P.Venkateswarulu,
Hyderabad.
100 S.Srinivas, S/o. Somaiah,
Kothagudem, Khammam district.
101 Tomi Ramu, S/o. Ramunaidu,
Denduru Post, Kothavalasa Mandal,
Vizianagaram District.
102 M.V.Venkata Narasimha Murthy,
Kancharapalem, Visakhapatnam District.
103 S.K.Pasheed, S/o. Habeeb,

Muthukur, Nellore District.

104 B.Umamaheswara Rao, S/o. B.Appa Rao,
Kancharapalem, Visakhapatnam

105 P.Ramesh Patnaik, S/o. Thrinatharao,
Vepagunta Mandal, Visakapatnam.

106 G.Nageswar Rao
Kancharrapalem, Visakahapatnam.

107 R.Chandra Sekar, S/o. Suryanarayana,
Old Dair Farm, Visakhapatnam.

108 V.Srinivasu, S/o. Apparao
Simhadripuram, Visakhapatnam.

109 P.Rajasekhar, S/o. P.Dhanunjaya,
Kancharapalem, Visakhapatnam.

110 M.Raju, S/o. M.B.Abdula,
Marripalem, Visakhapatnam.

111 H.Karunakar, S/o. M.Rajendra Babu,
B.R.Nagar, 32-15/18, Vijayawada.

112 D.BalaKrishna, S/o.Hatchaya
Vijayawada post, Dornakal Mandal, Warangal District.

113 P.Kumar Swamy, S/o. Thrindha
Tekkali, Srikakulam District.

114 I.Sumalatha,
Visakapatnam.

115 N.Surya Prabha, S/o. Ramarao,
South Jail Road, Visakhapatnam.

116 R.Appala Naidu, S/o. Narasimha Naidu,
Chanduluru Post, L.Kota Mandal,
Vizianagaram District.

117 A.Prarrenda, D/o. Ramana,
Gondupalem, K.Kotapadu Mandal,
Visakhapatnam.

118 K.Annupama, D/o. Ramaswamy,
Pinapadu, Tenali, Guntur District.

119 R. Chandra Sekhar, S/o. Kesava Rao,
D.No.3-106, Adarsh Nagar, Old Dairy form, Visakhapatnam.

120 K.K.Raju, S/o. Rama Raju,
D.No.A-17/8, Scindiya New Colony, Visakhapatnam-530 005.

121 P.Sanyasi Naidu, S/o. P.Appalanaidu,
Gajuwaka, Visakhapatnam.

122 Vennala Sankara Rao, S/o. Bangarayya,
Sabbavaram Mandal, Visakhapatnam.

123 D.K.R. Sai Murali Mohan, S/o. Narasinga Rao
Chodavaram, Visakhapatnam.

124 Gandi Mutyala Naidu, S/o. Demudu,
Sabbavaram, Visakhapatnam.

125 Vanam Satyanarayana, S/o. Ramulu,
R/o. Ajaynagar, Balajangalapalem, Koduru, Sabhavaram,Visakhapatnam Dist.

126 P.V.Ramana Murthy, S/o. Rama Murthy,
Visakhapatnam.

127 J.Subramanya, S/o. Krishna,
Baipadu, Chidikonda,Visakhapatnam District.

128 A.Satyanarayana, S/o. Narayana,

C/o. Leo Tailor, Chodavaram, Visakhapatnam District.

129 B.Sai Subramanyam, S/o. Subramanyam,
Vodapallivari Veedi, Chodavaram, Visakhapatnam District.

130 D.Eswara Rao, S/o. Atchi Babu,
Gondupalem, K.Kotapadu,
Visakhapatname District.

131 M.P.G.Padmavathi, W/o. Bhaskara Rao,
Gondupalem, Kotapadu Vizag.

132 Gedala Suri Naidu, S/o. Satyam
Sompuram, Vepad, Vizianagaram.

133 G.Appa Rao, S/o. G.Chinnam Naidu,
Vepada, Vizianagarm.

134 V.E.Appala Naidu, S/o. Demudu,
Bhoomireddypalem, Vizianagaram.

135 K.S.A.Srinivasa Rao Satyanarayana,
S.Kota, S.T.Hostel, Vizianagaram.

136 P.Veer Bhadra, S/o. P.R.V.B.Swamy,
Chanduluru, S.Kota, Vizianagaram.

137 R.Sanyasi Naidu, S/o. Yeruku Naidu
L.Kota, Vizianagaram,

138 N.Gowri Naidu, S/o. Ramu Naidu,
Alamanda, Vizianagaram.

139 Karri Venkata Vara Prasad, S/o. Narasimha Rao
D.No.28-4-9, SRR Street, Tanuku, W.G.Dt.

140 I.Sumalata, W/o. Ravi Prasad Reddy,
Hyderabad.

141 S.Santosh Naveen Kumar, S/o. G. Chandrasekhara Rao,
D.No.35-25-8, Chruch Veedhi, Tanuku,
W.G.Dt.

142 R.Rajagopal Naik S/o. Ramaswamy Naik,
Railway Colony, Tanuku, W.G.Dt.

143 G.Prasad, S/o. Nageswara Rao,
Korukollu, Palakoderu Mandal,

W.G.Dt.

144 N.Sankara Rao, S/o. Demudu,
Bheemali, Vizianagaram District.

145 K.A.T.R.Naidu, S/o. Satyanaraya,
Near S.T.Hostel, S.Kota, Vizianagaram District.

146 G.Manga Raju, S/o. Krishana,
S.Kota, Vizianagaram Dt.

147 P.Swamy Naidu, S/o. Kannaya,
Peddaveedhi, S.Kota, Vizianagaram District.

148 Tappiti Srinivasu S/o. Suryanarayana
Vizianagaram.

149 D.Prasad, Ramana,
S.Kota, Vizianagaram.

150 D.H.B.Srinivasa Rao, S/o. Thirinadha Rao,
S.Kota, Vizianagaram District.

151 Kolimi Hussain Basha, Mouli Saheb,
Presently residing at Hyderabad.

152 Namgi Rangaswamy S/o. Sanjappa,

Presently residing at Hyderabad.

153 R.Sunil Kumar, S/o. Govind,
Presently residing at Hyderabad.

154 Rathod Ramesh Thawara, S/o. Thawara
Presently residing at Hyderabad.

155 S.Anjaneyulu, S/o. Narasimhudu,
Presently residing at Hyderabad.

156 C.Erranna, Pakkirappa,
Presently residing at Hyderabad.

157 A.B.Mahesh, S/o.Subbarayudu,
Presently residing at Hyderabad.

158 Bansode Sunil, S/o. Bansodebhav rao,
Presently residing at Hyderabad.

159 Banu Venkata Apparao, S/o. Narsimham,
Presently residing at Hyderabad.

160 Dharavath Ramarao S/o. Jagannath,
Presently residing at Hyderabad.

161 Thnntru Suresh Babu, S/o. Achibabu,
Presently residing at Hyderabad.

162 Sri Sanjay Kumar Singh, S/o. Satya Ram Singh,
Presently residing at Hyderabad.

163 Ashok Kumar Yadava, S/o. Dima Nath Yadava,

164 Rajesh Kumar Yadava, S/o. Sri Sri Ram Yadav,
Presently residing at Hyderabad.

165 Anjani Kumar Yadava, S/o. Vidhyachal Yadav,
Presently residing at Hyderabad.

166 Dalalaxmipathy, S/o.Daranarayana,
Presently residing at Hyderabad.

167 k.K.suresh S/o.B.Kistappa
Presently residing at Hyderabad

168 Hari Ram Madhav S/o.Viswanath
Presently residing at Hyderabad.

169 Samuel babu Mogili S/o.Venesh Mobili
Presently residing at Hyderabad

170 Ramesh Gujjula, S/o. Malla Kondlaha,
Presently residing at Hyderabad.

171 Tarigonda Reddy Jyoghi, S/o. S. Mallikarjuna,
Presently residing at Hyderabad.

172 R.Venkata Chalam S/o.P.Raja Gopal
Presently residing at Hyderabad

173 T.Ramesh S/o.Gurappa
Presently residing at Hyderabad

174 Patan Yunus Baba S/o.Patan shaik Sahavali
Presently residing at Hyderabad

175 Ramavatathi Rupal Naik S/o.Gope Naik
Presently residing at Hyderabad

176 Sugali Anjanaiah S/o.Husenappa
Presently residing at Hyderabad

177 Gane Anjaiah S/O.Hema Naik
Presently residing at Hyderabad

178 P.Neme Naik S/o.Narayana Naik
Presently residing at Hyderabad

179 B.G.Ramanjineya S/o.B.R.Ganga Reddy

Presently residing at Hyderabad

180 Vijayanaik Palti S/o.Amaranaik
Presently residing at Hyderabad

181 Sahik Safirulla S/o.Sahhammed yusuf
Presently residing at Hyderabad

182 Thulasi Ram S/o.Mahdev Rayulu
Presently residing at Hyderabad

183 Dedekula Yerri Swamy S/o.Pakirappa
Presently residing at Hyderabad

184 K.Kumara Lingaiah S/o.Ramalingaiah
Presently residing at Hyderabad

185 Kumawath Balanaik S/o.Mangenaik
Presently residing at Hyderabad

186 Sabhavath Ravindra Naik S/o.Thirupal
Presently residing at Hyderabad

187 Guruvaiah S/o.Ramesh
Presently residing at Hyderabad

188 Adabala Ravi Prasad S/o.Ramakrishna
Presently residing at Hyderabad

189 Mahaboob Basha Shaik S/o.Shaik Honnur
Presently residing at Hyderabad

190 B.Kullai Babu S/o.Ramaiah
Presently residing at Hyderabad

191 J.Sreerama Reddy S/o.Nallappa Naik
Presently residing at Hyderabad

192 L.Sankar Naik S/o.Sakriya Naik
Presently residing at Hyderabad

193 Bhukke Krishna Naik S/o.Narsimhulu
Presently residing at Hyderabad

194 S.Chinna Venkatesulu S/o.Late Siddappa
Presently residing at Hyderabad

195 S.Aslam Rabbani S/o.Mahaboobjani
Presently residing at Hyderabad

196 G.Manjula D/o.Narayana Naik
Presently residing at Hyderabad

197 K.Maruthi Prasad S/o.Nettikal
Presently residing at Hyderabad

198 Naggari Hari Kumar S/o.Bala Narayana
Presently residing at Hyderabad

199 Angajala Prasad S/o.Ramanna
Presently residing at Hyderabad

200 Ramavath Gobrenaik S/o.Ramavathgoge
Presently residing at Hyderabad

201 P.Khaja Mohiuddin S/o.chinna Masthan
Presently residing at Hyderabad

202 Bottieayala Lakshmi narayana S/o.Kulayappa
Presently residing at Hyderabad

203 Vardibonia Surendra Kumar S/o.Venkatesh
Presently residing at Hyderabad

204 Nenavath Pulla Naik S/o.Sakru Naik
Presently residing at Hyderabad

205 G.Sasidhar S/o.Vengopal
Presently residing at Hyderabad

206 D.Mahaboob Basha S/o.P.Masthan
Presently residing at Hyderabad
207 S.Murali Mohan S/o.Narayana Naik
Presently residing at Hyderabad
208 M.S.Moulali S/o.Akbar Badsha
Presently residing at Hyderabad
209 K.Gopi S/o.Ankaiah
Presently residing at Hyderabad
210 Marripati Chengal Rayudu S/o.Arpathi Gurrappa
Presently residing at Hyderabad
211 R.Ramachandra Naik S/o.eriya Naik
Presently residing at Hyderabad
212 A.Anjenayulu S/o.Gangulappa
Presently residing at Hyderabad
213 K.Ansoor S/o.Khaja Peer
Presently residing at Hyderabad
214 S.Shasha Vali S/o.Habeeb
Presently residing at Hyderabad
215 Munegari Chakriya Naik S/o.Hanuma Naik
R/o. Hyderabad
216 M.Vijay Kumar S/o.Dayanidhi
R/o. Hyderabad
217 Bella Anjenayulu S/o.Belleyajinna
R/o. Presently Resideing at Hyderabad
218 Godella Ramesh S/o.Nagarathnam
Presently residing at Hyderabad
219 G.Prakash Kumar S/o.Venugopal
Presently residing at Hyderabad
220 Shaik Madar Vali, S/o. Shaik Palla Saheb,
Presently residing at Hyderabad.
221 Sreenivasulu Basi Reddy S/o.Veeraiah
Presently residing at Hyderabad
222 Sapavath Gopichand, S/o.Loomda,

Presently residing at Hyderabad.
223 B.Peddanagaraju S/o. Peddanaganna,

Presently residing at Hyderabad.
224 Bukkeshadri Naik, S/o. Lakshma Naik,
Presently residing at Hyderabad.
225 Revadalla Nagaraju, S/o. Karibasava Swamy,
Presently residing at Hyderabad.
226 Mekala Sadak Vali, S/o. Mekala Syed Mouli
Presently residing at Hyderabad.
227 Naggi Puliraju, S/o. Sanjappa,
Presently residing at Hyderabad.
228 B.Basha, S/o. N.Venkataramulu,
Presently residing at Hyderabad.
229 Ramavathduble Naik S/o. Rosramnaik
Presently residing at Hyderabad.
230 S.Muneer, S/o. S.M.Goush,
Presently residing at Hyderabad.
231 B.Seeda Reddy, S/o. B.Varashaiah,
Presently residing at Hyderabad.

232 M.Amar Nath Reddy, S/o. Munirathnam Reddy,
Presently residing at Hyderabad.
233 D.Mohan Reddy, S/o. D.Linga Reddy,
Presently residing at Hyderabad.
234 P.Veshwar Rao, S/o.P.Babu Rao,
Presently residing at Hyderabad.
235 M.Muneppa Naik, S/o. Govind Naik,
Presently residing at Hyderabad.
236 V.Javechar Naik, S/o. Bhoja Naik
Presently residing at Hyderabad.
237 B.Ganesh Reddy, S/o. B.Kesava Reddy
Presently residing at Hyderabad.
238 K.Sudhakar Reddy, S/o.K.Nagavai Reddy,
Presently residing at Hyderabad.
239 P.Srinivasulu, S/o.P.Venkataiah,
Presently residing at Hyderabad.
240 M.Onuraiah, S/o.M.Onuraiah,
Presently residing at Hyderabad.
241 R.Pothularaiah, S/o.R.Venkata,
Presently residing at Hyderabad.
242 P.Nagaraju, S/o.P.Krishnaiah,
Presently residing at Hyderabad.
243 S.Kesava Naik, S/o.S.Krishna Naik,
Presently residing at Hyderabad.
244 K.Seswar Reddy, S/o.Malle Reddy
Presently residing at Hyderabad.
245 Y.Rami Reddy, S/o.B.Nane Naik,
Presently residing at Hyderabad.
246 Y.Rami Reddy, S/o.Y.Venkataramana,
Presently residing at Hyderabad.
247 Y.Venkatesulu, S/o.Y.Venkataramana
Presently residing at Hyderabad.
248 U.Sumathi, S/o.Chandrayadu,
Presently residing at Hyderabad.
249 S.Nagabhoshanam, S/o.S.Thirupalu,
Presently residing at Hyderabad.
250 P.Adilaxme, S/o.P.Chinnappa,
Presently residing at Hyderabad.
251 Y.Srinivasulu, S/o.Y.Anki Reddy,
Presently residing at Hyderabad.
252 K.Bali Reddy, S/o.K.Poli Reddy,
Presently residing at Hyderabad.
253 B.Muni Reddy, S/o.Raghu Ram Reddy
Presently residing at Hyderabad.
254 Syed Rasool, S/o.Syed Gafoor,
Presently residing at Hyderabad.
255 N.Hymavath, D/o. N.Eswaraiah,
Presently residing at Hyderabad.
256 R.Srinivasulu, S/o. R.Veeraiah,
Presently residing at Hyderabad.
257 E.Ventataraman, S/o. E.Venkata Subbaiah,
Presently residing at Hyderabad.
258 H.Mahesh Rao, S/o. H.Swamy Rao,

Presently residing at Hyderabad.

259 G.Omakar Nath, S/o.G.Hanumanthu,
Presently residing at Hyderabad.

260 C.Subbra Manyam S/o.C.Chengala Rayudu,
Presently residing at Hyderabad.

261 P.Subbaramanayam, S/o.P.Rangaiah,
Presently residing at Hyderabad.

262 B.Kotaiah, S/o. B.Subbramanyam,
Presently residing at Hyderabad.

263 Rathod Suresh Hai, S/o.R.Hari Dashrath,
Presently residing at Hyderabad.

264 R.Rupla Balram, S/o.R.Baliram Rupla,
Presently residing at Hyderabad.

265 D.Sreenivasulu, S/o.D.Benkushathappa,
Presently residing at Hyderabad.

266 B.Thimmappa, S/o. B.Ramanna,
Presently residing at Hyderabad.

267 M.Sekhar, S/o.Ramesh,
Presently residing at Hyderabad.

268 N.Murali, S/o.Govin Swamy Mandi,
Presently residing at Hyderabad.

269 Y.Ussenna, S/o.Redda Yellanganna
Presently residing at Hyderabad.

270 P.Ramesh, S/o.P.Pullaiah,
Presently residing at Hyderabad.

271 M.Venkateshwarlu, S/o.M.Linganna,
Presently residing at Hyderabad.

272 V.Krishna, S/o.V.Maniil,
Presently residing at Hyderabad.

273 P.Jacob Raj, S/o.B.Bhaskaran,
Presently residing at Hyderabad.

274 S.Mundalpudi, S/o.S.Chinnabbara Reddy,
Presently residing at Hyderabad.

275 M.Raja, S/o.M.Naganna
Presently residing at Hyderabad.

276 K.S.Vasu, S/o.K. Sree Ramulu,
Presently residing at Hyderabad.

277 B.Vijayulu, S/o.B.Laxmanna,
Presently residing at Hyderabad.

278 S.Jeved, S/o. S.Fayaz Rami,
Presently residing at Hyderabad.

279 C.Briamaiah S/o.C.Aswrtham
Presently residing at Hyderabad.

280 M.Sadak Vali S/o.M.Mouli Basha
Prese4ntly residing at Hyderabad

281 P.Ravindra Reddy S/o.P.Obulu Reddy
Presently residing at Hyderabad.

282 M.Sudhar Reddy S/o.Bhasker Reddy
Presently residing at Hyderabad.

283 P.Mallikarjuna Naik S/o.P.Naga Naik
Presently residing at Hyderabad.

284 P.Sesadre Naik S/o.B.Laxma Naik
Presently residing at Hyderabad.

285 Sanaulla Baig S/o.S.A.Baig
Presently residing at Hyderabad.
286 Aruind Yadav S/o.A.Yadav
Presently residing at Hyderabad.
287 K.Sudhakar S/o.K.Jayanna
Presently residing at Hyderabad.
288 K.Chandra Sekhar S/o.C.Chandryudu
Presently residing at Hyderabad.
289 Dasari Venkata Suresh S/o.Venkateswarlu
R/o.D.No.7/210, Boya Street, Kalyandurg P.O. Anantapur District.
290 T.Sreenivasa Rao S/o.Majjivelasa
R/o.Bheemunipatnam-531 162, Visakhapatnam.
291 T.Sreenivasulu Reddy S/o.Yellappareddy
R/o.koppi Reddy Palyam, Agarala Village H/o.Thepalli (v), Chandragiri

Mandal, Chittoor District.
292 K.Sarveswara Rao C/o.Krishna
R/o.Market Road, Anandapuram (P), Sagar (T) Shimoga District
Karnataka State.
293 K.Harish S/o.Kuppa Swamy,

Aged about 32 years, occ: Unemployee,

R/o.Market Road, Anandapuram (P), Sagar(T),

Shimoga District, Karnataka State.

294 C.Lakshmipathi Reddy S/o.Ramachandra Reddy
R/o.S.R.P.Building, Jayanagar colony Kalyandurg, Anantapur district.
295 B.Sreenivasulu S/o.B.Chenna Mallappa
R/o.D.No.11/45, Maremma Temple Street Kalyanadur-515 761, Anantapur

District.

..... PETITIONERS

AND

1 The Chairman, All Railway Recruitment Boards, Indian Railways, New Delhi.
2 The Chairman, Railway Recruitment Board, South Central Railway,

Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a Writ of certiorari, or any other appropriate writ order or direction, calling for the records pertaining to the Notification No. RRB/SC/607/01/2003/Group-D, dated 25-8-2004 issued by the 2nd respondent, proposing to conduct the written examination for the second time for recruitment to Group-D posts, insofar as the petitioners are concerned, as confirmed in O.A.No. 975 of 2004 dated 21-9-2004 on the file of Hon'ble Central Administrative Tribunal, Hyderabad Bench, and quash the

same as it is highly atrocious, unwarranted, highly arbitrary, unjust, unreasonable, capricious and abuse and declare the same as void ab initio, null and void and nonest in the eye of law, by holding that the petitioners are entitled for their appointment of Group-D Posts pursuant to their selection made in the month of February, 2004 and pass

Counsel for the Petitioner:MR.C.RAMACHANDRA RAJU

Counsel for the Respondents : Mr.S.R. Ashok, Senior Counsel for

Mr.Gouri Shankar Sanghi

W.P.M.P.No.2461 of 2005:

Petition under Rule 16-A of Writ Rules r/w. Section 151 CPC to implead the petitioners No.70 to 295 herein as petitioners No.70 to 295 in W.P.No.17144 of 2004 and also in W.P.M.P.No.22488 of 2004.

Counsel for petitioners : Sri G.Ramachandra Raju

Counsel for respondents : Sri Gouri Shankar Sanghi

WRIT PETITION NO : 19354 of 2004

Between:

1 S.K.Yakoob Pasha, S/o. Abdul Rahaman,
H.No.7-4-29, Medara Basthi, Kothagudem,
Khammam
2 P.Imam Khasim, S/o.P.S.Hussain peeran,
5/468, Ravindranagar, Cuddapah-516003.

..... PETITIONERS

AND

The Railway Recruitment Board, South Central Railways, Lalguda, Secunderabad

rep.by the Chairman.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari, or any other appropriate writ order or direction, calling for the records pertaining to the notification No. RRB/SC/607/01/2003/Group-D, dt.25-8-2004 issued by the respondent, proposing to conduct the written examination for the second time for recruitment to Group-D posts, in so far as the petitioners are concerned as confirmed in O.A.No.1008 of 2004 dt.23-9-2004 on the file of the Hon'ble Central Administrative Tribunal, Hyderabad Bench and quash the same as

it is highly atrocious, unwarranted, highly arbitrary, unjust unreasonable, capricious and abuse of power and declare the same as void ab initio, null and void and nonest in the eye of law, by holding that the petitioners are entitled for their appointment to Group-D posts pursuant to their selection made in the month of February 2004.

Counsel for the Petitioner:MR.MARIE DESAI

Counsel for the Respondent No.: MR.GOURI SHANKAR SANGHI

The Court made the following :

COMMON ORDER: (per P.S. Narayana.,J)

1. The unsuccessful applicants in O.A.No.975/2004 and O.A.No.1008/2004 on the file of Central Administrative Tribunal, Hyderabad Bench, hereinafter referred to as “Tribunal” in short, had

questioned the said orders by filing W.P.Nos.17144/2004 and W.P.No.19354/2004 respectively.

2. The main grievance of the writ petitioners relates to notification No.RRB/SC/607/01/2003/Group-D, dated 25-8-2004 issued by the 2nd respondent proposing to conduct written examination for the second time for recruitment to Group D posts. It is stated that the writ petitioners in W.P.No.17144/2004 without prejudice to their contentions no doubt had appeared for the said written examination conducted for the second time. But however, it is stated that the writ petitioners in W.P.No.19354/2004 had not again appeared for the aforesaid examination. Since common questions are involved in both these Writ Petitions, the same are being disposed of by this Common Order.

3. Sri C. Ramachandra Raju, the learned Counsel representing the writ petitioners in W.P.No.17144/2004 had traced the historical background of this litigation commencing from issuance of notification in relation to the selection of candidates for the posts of Gangmen, Kalasis and had given the details and particulars of the candidates who appeared for the examination and who had been ultimately successful. The learned Counsel also would contend that even after the completion of the physical efficiency test, the petitioners were in fact waiting for the posting orders and at that stage, though there are no irregularities at all on the ground that there had been certain

irregularities like mass copying etc., the 2nd respondent issued notification dated 25-8-2004. The learned Counsel had taken this Court through the respective pleadings of the parties and also the stage at which the said decision had been taken and the sufficient gap in between and also had pointed out certain news reports which would go to show that the Department itself at the earliest point of time had declared that the examinations went on well and the same had been in order but only because of the change of Government, this decision had been taken for certain extraneous reasons and the said decision had been taken without any basis, without any material and the same also is a malafide action. The learned Counsel also specifically pointed out to the press statement given by the Member Secretary in this regard. The Counsel also made a serious attempt to show that there could not have been any mass copying at all for the reason that the examinations were conducted in about 20 centres in twin cities spread over to 8 different colleges and the question papers were not uniform and they were in a jumbled form. The Counsel also would contend that even otherwise the mass copying could have been detected at the earliest point of time and the respondents could have taken steps not to publish the results at all. The Counsel also would maintain that it is not a question of leakage of the question paper but the ground is one of mass copying. It is stated that certain complaints had been received after a lapse of three months and it will

not take such a long time to detect mass copying if really the same had taken place. It is surprising to note that at the final stage of the selection process where the appointment orders are to be issued to the selected candidates, stopping the same and taking such an arbitrary decision without any basis whatsoever on the ground of mass copying definitely cannot be sustained. The alleged complaints are pseudo complaints. Even otherwise the Counsel would maintain that the specific examination centers where mass copying had taken place could have been identified, but under the guise of said malpractice the entire selection cannot be cancelled. The said decision is unreasonable and irrational since there was no enquiry and there was no report as such and it is doubtful whether the Vigilance Report at least was available on the date of taking this decision since no such enquiry had been conducted at all. The Counsel also contended that in the letter of the Railway Board, the reports had not been referred to. The letters addressed by the 2nd respondent alone had been referred to. The Counsel pointed out that the ground of impersonation had not been specifically raised before the Tribunal but however the ground of impersonation also is being pleaded at this stage which cannot be considered. The learned Counsel also maintained that the furnishing of the enquiry report, in view of the fact that large number of candidates are involved, to every one may be impracticable, but however when action had been

initiated questioning the decision in a Court of law at least the respondents could have furnished the same to the Counsel representing the writ petitioners, but even that had not been done. The Counsel also explained in detail how the examination had been conducted and even from the declared results it is clear that the stand of mass copying cannot be substantiated, but on the contrary to be negatived. The Counsel also would contend that even as per the stand taken by the respondents, the C.B.I. had not completed its enquiry by the time the decision had been taken and the Vigilance Report alone was available and the said report also had not been referred to in the said proceeding referred to supra. The learned Counsel pointed out to several details in the counter affidavit, the reply affidavit and also in the respective pleadings of the parties before the Tribunal and would maintain that in the facts and circumstances no prudent man can suspect the alleged mass copying. In the alternative the Counsel also would maintain that even if such malpractice of mass copying had been there at certain examination centers, such centers could have been detected or the persons who would have derived benefit could have been identified, but at any rate when it is not the stand of the respondents that such identification is impossible or impracticable, the en masse cancellation and taking a decision of conducting re-examination is definitely arbitrary, illegal and irrational and cannot be sustained. The

Counsel also advanced certain submissions to the effect that it is not a case of large scale mass copying and no incriminating circumstances had been pointed out for ordering re-examination. The learned Counsel also pointed out that in similar cases where certain malpractice had been reported in centers like Ahmedabad etc., how re-examination had been conducted at a particular center, and this kind of approach would be just and reasonable and not a decision of the nature which had been impugned before the Tribunal. The Counsel also pointed out to the reasoning adopted by the Tribunal relating to the delay in approaching and had explained that on the mere press report the writ petitioners/applicants could not have approached the Tribunal and in fact at the appropriate point of time and at the earliest point of time the writ petitioners approached the Tribunal questioning the impugned action. Sufficient stress was laid on the press statements of the Railway Minister and Member Secretary of the 2nd respondent Board made immediately after completion of the earlier written examinations that the written examinations of all the dates had been conducted properly without any irregularity whatsoever. To substantiate his submissions, the learned Counsel also placed reliance on certain decisions.

4. Smt.Mary Desai, the learned Counsel representing the writ petitioners in W.P.No.19354/2004 in substance had adopted the

submissions made by Sri C.Ramchandra Raju and further had pointed out that there is interim order not to take final decision in this regard. The learned Counsel also had pointed out to the relevant notifications, the conditions specified therein and also several press statements issued in this regard from time to time. The Counsel would maintain that in the light of the stand taken in the reply statement that they have decided to conduct written examination for the second time for the reason that they found mass copying in certain examination centers, should not have cancelled the written examination of all the qualified candidates unless it is impossible to identify the examination centers where mass copying had taken place or the said persons if any who would have derived benefit out of the same. The learned Counsel stressed on the aspect that when specific stand was taken by the writ petitioners that no enquiry was conducted at all, the non-furnishing of the enquiry report would definitely vitiate the impugned action. The learned Counsel also pointed out that if really mass copying had taken place in the written examination conducted as early as in the months of November and December 2003, the respondents could have got knowledge about the same immediately and should not have published the results and should not have conducted the Physical Efficiency Test and hence the stand of the respondents in this regard cannot be believed. The Counsel also laid sufficient stress on the statements made by the

Railway Minister and the Member Secretary of the Board after completion of the examinations. Ultimately, the Counsel would contend that the decision taken to conduct the examination again in the facts and circumstances definitely cannot be sustained and the Tribunal erred in negativing the relief prayed for by the writ petitioners/applicants.

5. Per contra, Sri S.R. Ashok, the Senior Standing Counsel representing the Railways made the following submissions. The learned Senior Counsel pointed out that this Court is exercising certiorari jurisdiction testing the impugned orders of the Tribunal and in view of the limitations placed on the power of judicial review on this Court while exercising such powers under Article 226 of the Constitution of India, this is not a fit case to be interfered with especially in the light of the reasons which had been recorded by the Tribunal. The learned Senior Counsel had pointed out to the reasons which had been recorded by the Tribunal in this regard and would contend that the test of a reasonable and prudent bureaucrat taking a decision may have to be applied in the present case since the facts and circumstances would definitely go to show that in the given set of facts a reasonably prudent bureaucrat could not have taken any other decision except the one which had been taken in this regard especially taking into consideration the limited candidates who were called upon to take up the re-examination again and also taking into

consideration the huge expenditure which the Railways would incur if again fresh examinations open to all are called for. The learned Senior Counsel in elaboration had taken this Court through the contents of the Vigilance Report and in all fairness the Counsel would maintain that by the time the decision was taken the only report available was the Vigilance Report since the C.B.I. enquiry was in progress. The learned Senior Counsel also in all fairness had pointed out that in the counter affidavit a mistaken statement had been made in this regard. The learned Senior Counsel also specifically pointed out relating to the fact that 62 candidates had been clearly identified to have impersonated and had placed reliance on the statements said to have been given by them. The learned Counsel also would maintain that the C.B.I. enquiry would reveal the involvement of outsiders. The wider scale irregularities apart from the mass copying at certain centers, impersonation, leakage of paper and involvement of the Private Secretary to R.R.I. also had been canvassed at length. The Counsel also would maintain that in view of the nature and the magnitude of the malpractices reported and detected it is practically impossible to pin point and separate such candidates from the general pool of candidates. In the light of the alternatives available before the authorities taking into consideration all the facts and circumstances the decision of re-examination to the limited number of candidates had been taken which is not a surprise decision or a

malafide decision which would not have been taken by any ordinary prudent man inclusive of an ideal bureaucrat. The learned Counsel also had explained the stand taken by the Railways in the counter affidavit filed before the Tribunal and would submit that at that stage investigation was in progress and the same was pending and hence specific pleas relating to the impersonation and the leakage of papers no doubt had not been taken. The Vigilance Cell's report had been taken as the basis for taking the decision of conducting re-examination. The Counsel also would point out in the light of the events it is clear that the decision is not politically motivated inasmuch as by the time the decision was taken there was no change of Government at the Center as alleged by the writ petitioners. The portions of the reports and the details had been pointed out in this regard. In the light of the alternatives available before the authorities a fair, just and reasonable decision had been taken on the strength of the material available which cannot be said to be either malafide or unreasonable or perverse at any rate. The Counsel also while elaborating his submissions had pointed out that the candidates have no right to get the post as such and at the best the candidates are having a right to be considered for appointment and moreover the selection process was already completed subject to finalisation. The learned Senior Counsel also would submit that in view of the impracticability of putting each candidate on notice, the

writ petitioners definitely cannot complain of violation of principles of natural justice in a case of this nature. The learned Counsel also made elaborate submissions on the exercise of certiorari jurisdiction and the limitations imposed on this Court while exercising powers of judicial review in relation to such administrative decision taken by the authorities which had been impugned in the O.As. referred to supra. The learned Senior Counsel had taken this Court through the facts of the cited decisions and would submit that these decisions are distinguishable on facts and not a case of this nature and each case may have to be decided depending upon the facts of the particular given case. The learned Counsel ultimately would conclude that in view of the fact that the decision which had been taken is just, rational and reasonable, the same was not disturbed by the Tribunal nor this is a case to be interfered with by this Court as a writ Court in view of the limitations imposed on this Court while exercising powers under Article 226 of the Constitution of India. The learned Counsel also placed reliance on certain decisions to substantiate his submissions.

6. Heard the Counsel at length and perused the impugned orders in these Writ Petitions, the findings recorded by the Tribunal, the other material available on record and the decisions cited at the Bar.

7. The grounds of attack by the respective parties to the present lis can be enumerated for the purpose of convenience as hereunder :

(1) Mass copying at certain centers (2)Impersonation of certain candidates (3) Leakage of question papers (4) Malafides (5) Politically motivated decision (6) Policy decision (7) Other malpractices if any based on the reports and (8) Power and limitations of exercising judicial review.

8. <u>Mass copying</u> : The consistent stand taken by the Railways from the beginning commencing from the reply affidavit before the Tribunal is the ground of mass copying by virtue of which the decision to conduct re-examination had been taken. Before adverting to the other details the Railway Board's letter dated 4-6-2004 may be looked into which reads as hereunder :

GOVERNMENT OF INDIA/BHARAT SARKAR

MINISTRY OF RAILWAY/RAIL MANTRALAYA

(RAILWAY BOARD)

No.99/E(RRB)/25/11 New Delhi, dated 04-06-2004

The Chairman,

Railway Recruitment Board,

Secunderabad.

Sub: Irregularities detected in the written test conducted for recruitment to Group 'D' posts by RRB/Secunderabad.

Ref: Your Confdl. Letter No.RRB/SC/CMMA/01, dated 4.3.2004 and supplementary information dated 5.3.04 & 16.4.04.

*****

Board have gone into complete details of the matter. In view of the nature of malpractices/irregularities involved, it has been decided that candidates obtaining minimum qualifying marks may be subjected to another written examination by conducting the same in good educational institutions under tight control and supervision. This would ensure exclusion of those who might have secured undue advantage in the earlier examination. Thereafter, candidates may be called for Physical Efficiency Test (PET) on the basis of the fresh merit list irrespective of the fact whether some of them had appeared in the PET held in February, 2004.

Cases of candidates which have been referred to GEQD and later confirmed by excluding those found guilty during the course of investigation by Vigilance/CBI, will be dealt with as per extant rules at the time of preparation of final panel or at any later stage, as the same may be.

Necessary action for conducting written examination and PET may kindly be taken at the earliest possible."

In yet another letter dated 1-9-2004 it has been specified :

"RRB/Secunderabad can go ahead with the examination schedule on 26.09.2004".

As already referred to supra the ground of mass copying at certain centers as a ground taken in the present decision impugned no doubt had been specifically pleaded in the reply affidavit before the Tribunal. The Tribunal at para-5 of the impugned order observed as hereunder :

"On a perusal of the earlier Employment Notice No.1/2003 issued by the second respondent, copy of which is produced as Annexure-1 along with the reply statement of the respondents, it is found that the RRB has reserved liberty to conduct second stage examination if required as can be seen

from para 18.1. Para 18.4 makes it clear that selection of candidates by RRB does not confer any right to the candidate for appointment. Thus it is found that the submission of the respondents that the right to hold second stage examination, if required, is reserved by the RRB under the Employment Notice No.1/2003 issued by the second respondent, is found to be correct. However, the learned Counsel of the applicants vehemently contended that the said power reserved by the RRB cannot be arbitrarily exercised and only on valid grounds and for sufficient reasons the said power has to be exercised. It is further submitted by him that when there is nothing on record to hold that any of the applicants who were selected in the earlier written examination have resorted to any malpractice, the action taken by the 2nd respondent in calling upon them to appear for the second stage examination under the impugned notification dated 25.8.2004 issued by the second respondent is arbitrary and illegal and it amounts to violation of the rights guaranteed under Articles 14, 16 and 21 of the Constitution of India. He further submitted that the second respondent ought to have confined the said second stage examination only in respect of those candidates who have resorted to malpractice, from among the candidates who have secured the minimum qualifying marks in the previous written examination held and who were subjected to Physical Efficiency Test subsequently, out of 2690 candidates so qualified. He further submitted that earlier the Member Secretary of the RRB had issued a statement to the Press which was published in Andhra Prabha daily newspaper dated 8.2.2004, copy of which is produced along with the rejoinder, stating that the written examinations were conducted properly to their utmost satisfaction without there being any scope for any kind of irregularities. He further submitted that the then State Minister for Railways Sri Bandaru Dattatreya had also made a statement in the Press which was published in Eenadu Telugu daily dated 15.12.2003 stating that there is no scope for any irregularities whatsoever in the written examinations conducted for the filing up of Group-D posts. He produced a copy of that Press Statement along with the rejoinder filed by him. He further contended that the authorities have identified some of the Centres where mass copying has been resorted to and have also identified some of the candidates in respect of whom examination was written by others by impersonating them. He, therefore, contended that holding of second stage examination should have been confined only in respect of those candidates. But it is found from the facts disclosed in the reply statement filed by the respondents that in view of the

nature of malpractices/irregularities involved, the Railway Board has decided to hold second stage qualifying examination in respect of all the candidates who have secured minimum qualifying marks in the earlier written examination held. It is further pointed out by the respondents that the enquiry and investigation in this regard was done by the competent authorities like Vigilance and CBI and only on the basis of the reports submitted by the said agencies the Railway Board has taken a decision to hold the second stage examination. It is also submitted by the learned Standing Counsel for the respondents that it is not possible to identify the candidates who have resorted to malpractices such as mass copying etc., when they were distributed to different Centres for writing the examination. The respondents have also submitted in their reply statement that complaints were received by the Railway Recruitment Board that candidates in some Examination Centres indulged in mass copying. During verification of the certificates of the candidates who have qualified in the Physical Efficiency Test held from 4.2.2004 to 13.2.2004, it was noticed that certain malpractices have taken place. The respondents have also submitted that the Railway Board has gone into the complete details of the matter and in view of the nature of malpractices/irregularities involved, it has decided that the candidates obtaining minimum qualifying marks may be subjected to another written examination by conducting same in good educational institutions under tight control and supervision. This fact is intimated to the Railway Recruitment Board by letter dated 4.6.2004 by the Railway Board, copy of which is Annexure-III. The respondents further submitted in their reply statement that the Railway Board also intimated in another letter dated 1.9.2004, copy of which is produced as Annexure/IIIB that the candidates themselves have not objected for second stage examination and they were only seeking for reasonable time for conducting the written examination. It cannot, therefore be said that the liberty reserved by the RRB to conduct second stage examination in the Employment Notice No.1/2003 is being exercised without any valid grounds and justifiable reasons. Further, it is also found that except the applicants, all the other candidates who have passed in the earlier written examination have not objected for conducting the second stage examination by the RRB. Even according to the applicants, 2690 candidates were qualified in the written test held earlier and they were all subjected to Physical Efficiency Test. When all the said candidates except the applicants have not challenged the holding of second stage examination by RRB, we find that at

the instance of the applicants the said examination scheduled to be held on 26.9.2004 cannot be cancelled. Further when the notification has been issued on 25/8/2004 clearly intimating all the 15,768 candidates who passed the written examination that the second stage written examination will be held on 26.9.2004, the applicants are not entitled to challenge the said notification issued at this belated stage when the examination is scheduled to be held on 26.9.2004 and when all preparations were made for conducting the said examination by the RRB. Further it is also pointed out by the respondents that call letters for the second stage written examination to all the 15,768 candidates have been dispatched. It is further pointed out by the respondents that as long back as on 24th May, 2004 itself a Press Statement has been issued by the Chairman, RRB, copy of which is produced as Annexure-II along with the reply statement indicating that RRB will hold second stage examination for those who qualified in the recruitment test to filter and eject the copy cats. In spite of the knowledge of the said facts, the applicants have waited all these days and approached this Tribunal in the present O.A. at a belated stage, when the fresh date fixed for conducting the examination is fast approaching. For the above reasons, we find that there are no justifiable grounds to interfere with the action taken by the RRB in issuing the impugned notification dated 25.8.2004 for holding the second stage examination in respect of 15,768 candidates who passed the earlier written examination held in respect of Group-D posts notified. Apart from this fact, though the respondents have denied that the list of selected candidates has been published by RRB, the applicants have not produced any documentary evidence in support of their contention that the final list of selected candidates was published by the RRB and also in support of their contention that the final panel has been released by the RRB and that their names were included in the said panel. We, therefore, find that the applicants have no legal right to seek for issuing appointment orders in their favour for Group-D posts. The contention of the learned Counsel for the applicants that because the Member secretary of the RRB, Secunderabad had issued a statement to the Press which was published in Andhra Prabha daily newspaper dated 8.2.2004 stating that the written examinations were conducted properly to their utmost satisfaction without there being any scope for any kind of irregularities and that a similar statement has been issued by the then State Minister of Railways Mr.Bandaru Dattatreya which was published in Eenadu daily newspaper dated 15.12.2003, it must be held that there is no justification for

holding the second stage examination by the RRB under the impugned notification issued, cannot be accepted since the subsequent enquiry/investigation conducted by the Railway Board through the Vigilance and CBI Agencies disclosed that the irregularities/malpractices have been resorted to in the earlier written examination conducted and it is on the basis of the said reports, the Railway Board felt it necessary to hold the second stage examination. In fact, it is the case of the respondents that subsequently complaints were received by the RRB that the candidates in some Examination Centers indulged in mass copying and it is for this reason that the enquiry/investigation has been entrusted to the Agencies of CBI and Vigilance in respect of the said complaints and it is only thereafter it came to light that there is truth in the said complaints received."

The reasoning adopted by the Tribunal referred to supra had been assailed on several grounds.

9. The petitioners applied for Group D posts in South Central Railway, Zone Secunderabad, pursuant to the employment notice No.1/2003 28-6-2003 issued by the 1st respondent and written examination was conducted on different dates from 9-11-2003 to 21-12-2003 for filing up of the said posts and the petitioners appeared for the said examination and have qualified themselves and have been called for Physical Efficiency Test conducted in the month of February 2004 on various dates. The writ petitioners and certain others also appeared for Physical Efficiency Test and have been qualified in the said test also and the list of the selected candidates also had been published and the petitioners have been awaiting for the appointment orders. Except finalisation and issuance of the appointment orders, the whole

procedure had been completed as specified above. The 2nd respondent issued a notification dated 25-8-2004 which was published in Andhra Jyothi daily on 27-8-2004 for conducting written examination for the second time on 26-9-2004 for all candidates who got minimum marks in the first written examination inclusive of the candidates who have been qualified in the written examination for Physical Efficiency Test and also have been declared selected by publication of results. The respondents called for applications by employment notice No.1/2003 dated 28-6-2003 for filling up of 2690 posts in Group-D in South Central Railway, Zone Secunderabad. The main grievance ventilated by the writ petitioners is that the second stage of written examination and the decision making process in taking such decision is vitiated and the same is liable to be quashed and the Tribunal totally erred in negativing the said relief to the writ petitioners and similarly placed persons whose results already had been declared and who had been awaiting for the appointment orders.

10. The Railways filed a counter affidavit in detail reiterating the same stand as taken before the Tribunal and no doubt taking certain additional grounds also. A reply affidavit also was filed in this regard. The specific stand taken by the Railways is that the list of 2690 candidates called for Physical Efficiency Test was displayed on

Notice Board and Web Site for ensuring transparency. The candidates were called upon to go through Physical Efficiency Test followed by verification of original certificates and documents from 3.2.2004 to 13.2.2004. Thus, the exercise of Physical Efficiency Test and verification of original certificates and documents was conducted simultaneously. The averment that the Railway Recruitment Board (hereinafter referred to as “RRB”) has finalized the panel of selected candidates, is not true and correct, as no such finalisation of selection process was ever made nor was any communication put on the Notice Board. Indeed, as by that time antecedents verification of the said candidates had not been done, the question of selecting any candidate for appointment, did not arise. It was in the course of said Physical Efficiency Test and verification of original certificates, information had surfaced that all was not well with the examination process. There was material before the authorities that there were quite a good number of impersonations, apart from resorting to malpractice in the course of examination. It was based on the said information that surfaced, further enquiries were conducted by the Railway Administration which led to more intriguing features of the examination. Some of the candidates themselves have, when questioned in the course of the verification, not only disclosed the kind of irregularities that were committed in the course examination, but also disclosed the details of the persons with whose connivance

the said irregularities were committed. In the face of these circumstances, question of RRB finalizing the selection in February, 2004 did not arise. In these circumstances, the RRB reported the matter to Railways and sought instructions as to future course of action. Immediately thereafter, the RRB caused reference of the issue to the Vigilance Cell of the South Central Railway, which made its own verification by a discrete enquiry. As the volume of the irregularities and the persons involved appear to be too wide and as persons other than Railway employees were also seem to be involved in the issue, Vigilance Cell made reference to C.B.I. for appropriate investigation. The results of Vigilance inquiry and the inquiry by C.B.I. were prepared by way of reports and forwarded to the Railway for appropriate decision. After considering the entire factual matrix and the reports of the said investigation agency, RRB opined that it was appropriate to hold second stage examination in principle, but there was no formal decision taken as to the number of candidates that should be called for by the said date. Having regard to these circumstances, the Chairman, RRB, issued a press statement on 24.5.2004 stating that the second stage examination would be conducted after getting formal approval of the Board. Thereafter, the Railway Board issued a formal communication dt.4.6.2004 directing conducting of second stage examination for all those candidates who got minimum qualifying marks in the written

examination in November/December 2003. Accordingly, the RRB issued a notification dt.25-8-2004 proposing to hold second stage examination for 15758 candidates who have secured minimum qualifying marks in the aforesaid examination. While publishing the list of members of those qualifying candidates, the Railway Board also issued individual call letters to all such applicants, calling upon them to appear for the written examination scheduled to be held on 26-9-2004. It was further stated that notwithstanding the above, the petitioners chose to remain passive from May to August, 2004 and resorted to litigative process only a week before the schedule examination by filing O.A.No.974/2004 and got the case listed for admission only on 10-9-2004 i.e., 15 days prior to the scheduled reexamination. It was stated that as many as 15758 candidates were issued call letters as early as on 25-8-2004 and the arrangements were made for holding the written examination on a massive scale for all the said 15758 candidates. If the petitioners were really aggrieved, in all fairness, they should have worked out their legal remedies immediately after RRB declared its intention of holding the second stage examination in May, 2004. It was also further stated that the petitioners lack bonafides in moving the Tribunal belatedly. The oblique motive on the part of the petitioners seems to derail the entire process of second stage examination by challenging it in the last minute.

11. It was further stated in the counter affidavit that in the course of physical efficiency test and verification of the original documents, the irregularities were surfaced which paved the way for taking such a decision. The decision was taken in principle to hold re-examination as early as in May 2004 and the same was released to Press for information of the candidates and hence it cannot be said that it is a sudden decision. Respondents had taken this decision based on the material on record including the investigation reports of the Vigilance Cell and the C.B.I. and in all fairness this decision to conduct examination to the limited number of candidates alone had been taken taking into consideration all the facts and circumstances. Further, specific stand had been taken by the Railways that the power of the 2nd respondent to conduct second stage written examination cannot be called in question. The said decision is neither arbitrary nor discriminatory but the same is just and reasonable. Further, specific stand was taken that it is not possible to conduct second stage examination only to such of the centers where copying had taken place since it is difficult to precisely point out the particular examination center in the face of charge of mass copying and wider irregularities, but having regard to the wider exercise involved and necessity to recruit Gangmen in larger public interest expeditiously, second stage examination was ordered duly extending it to all the candidates who secured qualifying marks in the written

examination. It was also pleaded that even assuming without conceding that none of the petitioners are covered by charge of impersonation and resort to malpractice there is no material to exclude them from the charge of being benefited by leakage of examination paper. In view of the fact that the decision to hold second stage examination is well based on valid and relevant reasons, the said exercise of power cannot be styled to be arbitrary.

12. The stand taken before the Tribunal and also before this Court in the affidavit filed in support of the Writ Petition again had been reiterated even in the reply affidavit. Almost similar pleadings are available on record in both the Writ Petitions.

13. In the reply statement filed on behalf of the respondents before the Tribunal while narrating the facts of the case it was pleaded as hereunder:

> "Railway Recruitment Board by its Employment Notification No.01/2003 dated 13-06-2003 (Annexure-I) has called for alienations for filling up Group-D posts on Indian Railways through Centralised Employment Notice. In pursuance of the above Employment Notice, 10,02,909 applications were received by RRB/Secunderabad, out of which 5,86,955 were found eligible and Call-Letters were sent to appear for the written test. A total of 3,22,223 Number of candidates appeared for the written test, out of which 2690 were selected to be called for Physical Efficiency Test in the ratio of 1:1. 2690 number of candidates were found to be qualified in the Physical Efficiency Test held from 03.02.2004 to 12.02.04. The Physical Efficiency Test is only qualifying in nature.
>
> Candidates qualified in the Physical Efficiency Test were called for Verification of Original Certificates from 04.02.2004 to

13.02.04. During verification, it was observed that certain malpractices have taken place. Meanwhile complaints were received by the Railway Recruitment Board that candidates in some examination centers indulged in mass copying. Then through a Press Statement, the Chairman, RRB has indicated that RRB will now hold a Second Stage Examination for those who qualified in the recruitment test to filter and eject the copy cats. The RRB will conduct the test once it gets the nod from the Railway Board. To have full transparency in the selection of the candidates, RRB is planning to hold a Test again for those who qualified in the First examination."

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It is pertinent to note that at the earliest point of time in the pleading mass copying in some examination centers alone had been specified. No doubt the same is explained on the ground that the investigation was in progress at the relevant point of time and hence the additional grounds had not been taken. Be that as it may, this ground of mass copying in certain examination centers had been taken at the earliest point of time and this is the consistent stand taken at all stages.

14. On a careful scrutiny of the material available on record there appears to be sufficient time gap in between the dates of examinations and the decision taken for conduct of re-examination. The stand taken by the Railways is that at the time of verification the irregularities came to surface which paved the way of taking the present impugned decision. It is needless to say that in the recruitment process there are several stages and in the light of the facts which are not seriously controverted or disputed by both the

parties all the stages are over and at the last stage of finalisation and issuance of orders of appointments, this decision had been taken. If the large scale of mass copying at certain centers is a ground, then limiting the examination only to a limited number of candidates who would also could have been benefited by such malpractice if any cannot be ruled out and in such a case in the decision making process, merely because that Railways would be involved in some financial burden, limited examination for the limited number of candidates would be totally unjustified since it is a question of public employment and affording equal opportunity to the public at large. In other words if the stand of the Railways is to be accepted that this is the ground which had paved the way of the decision making it would definitely vitiate the whole examination as such and irrespective of the hardship or otherwise which had been complained of by the Railways. The best course would have been to go for a fresh notification altogether inviting applications from the public at large. That was not done for reasons best known. However, in the light of the limitations imposed on this Court in examining only the decision making process, it is not for this Court to go into those minute details in relation to the alternatives which could have been chosen by the concerned authorities. Suffice to state that this Court can definitely examine whether the decision making process is vitiated by taking such a decision on insufficient material or material which cannot be

accepted in the eye of law or the same is otherwise vitiated resulting in the impugned action which is styled to be arbitrary by the writ petitioners and termed to be just rational and reasonable by the Railways.

15. It is pertinent to note that the Vigilance Report was not referred to in the proceeding in which the decision to conduct re-examination had been taken. It was stated in the Vigilance Report as hereunder :

A. It is understood that no prevent the cases of impersonation, RRB/SC had devised the method of copying of one paragraph by the candidate in the application, in the written test and at the stage of physical appearance for PET. These scripts are cross checked to confirm the hand writing at the stage of verification of certificates. This procedure resulted in detecting about 62 candidates, who had impersonated successfully hoodwinking the Administration. These cases were detected during PET by verifying the personal details of the candidates such as, name, father's name, address, identification marks, specimen, signature as provided in the hall ticket together with the photograph of the candidate. The RRB/SC will be withholding the results of these 62 candidates and is proposing to refer the matter to GEQD/HYD for their certification officially.

B. Further during verification of answer sheets of certain candidates, it was noticed that the pattern of replies given by the candidates were found suspicious. On close scrutiny of the answer sheets of at least 6 candidates, it was found that these candidates had certainly adopted unfair means to secure qualifying marks in the written test. ….."

Certain shocking facts had been referred to in the said Vigilance Report and it was observed that three candidates had confirmed to the unfair means adopted by them as sounded by reliable sources and the report had specified certain names too and it was stated that in the large scale impersonation about 62 candidates had been detected to have been impersonated out of 2690 candidates qualified in the written test and the same is an area of serious concern. It was further stated that yet another 100 to 200 are suspected to have obtained answers for the questions 3 hours before the examination through some middlemen who arranged the answers by accepting huge bribe in each case as stated by certain persons. Certain other facts also had been referred to and it was stated that the Vigilance investigation done so far as prima facie establish the leakage of answers to a sizable number of candidates for examination held on 23-11-2003 besides impersonation by 62 candidates during the examination process. It was further stated that to weed out the irregularities as discussed above, there is a provision in terms of Railway Board letter dated 9-3-2002 which inter-alia states :

> "Chairman may arrange two stage examination even for those categories for which a single stage has been prescribed, if, in their opinion, the number of applicants is so large that strict control over the invigilation at all examination center becomes difficult. However, they should obtain prior approval from ED/RRB for conducting two stage examination. It is pertinent to mention here that in E.N.No.1/2003 in para 18.1, it was made clear that RRB reserves the right to conduct second stage examination if required. Further to the above, the modus operandi and the extent of involvement of Railway Officials, if

any, as well as outsiders will be known if a thorough probe is done by an agency like CBI to prevent recurrence of the same in future."

Further, the statements of the candidates had been referred to and certain details had been pointed out and ultimately it was stated in the Vigilance Report :

"This is an alarming report. When RRB has made very firm, strict and elaborate arrangements, it is surprising that this type of irregularities have taken place. The irregularities as indicated in this report shows that there are cases of –

a. Leakage of the question paper.

b. Large-scale impersonation.

What is surprising is that when we go through the list of the names, we find most of the candidates are outsiders and not local candidates, which leads us to believe that the impersonation and leakage has been pre-planned and is wide spread to other Stages as well.

From the report, it is also seen that large amount of money has passed hands for such impersonation as well as for leakage.

What has come to notice is only of leakage only for two days i.e., on 16th and 23rd November, 03 which obviously would require further investigation also in great detail so that –

a. wrong candidates do not get into the service; and

b. the right candidates who are merited, are not deprived of their chance, just because of fraud and corruption that has taken place.

It is possible that the Railway staff, may be at RRB's level and also at higher officials and coterie of outsiders are also involved in this case. If, on a stipulated date, several people from outside the State could be made to sit together and write pre-prepared answers and also one of the candidates reported that about 100-200 candidates were sitting in one hall in a distant location, it gives a different picture altogether away from conduct of examinations in a fair manner.

I certainly believe that there is a large-scale network and connivance in this case.

During the recent past, even Member Staff has addressed a letter to us (in some other context) about possibilities of corruption and influence.

Taking all the above factors into consideration, it is necessary that –

a. RRB should be advised to withhold the results in toto.

b. All the suspected cases should be referred to GEQD.

c. Since I suspect there is a large-scale connivance at different levels, both from among the Railway/RRB staff and outsiders (middlemen), it is necessary that the while matter should be investigated and same should be handed over to the CBI.

Meanwhile, Vigilance also may continue to do the investigation and help the CBI."

As already referred to supra, this Vigilance Report had not been specifically relied upon since the same had not been referred to. No doubt it is the specific stand taken by the Railways that this is the report on which the decision to conduct re-examination in fact had been taken. On a careful scrutiny of the Vigilance Report which in fact had not been furnished to the Counsel for the writ petitioners at least at present, it is no doubt clear that the impersonation of at least 62 candidates had been identified but however it is not clear who are those candidates and the details relating thereto except specifying certain names and the statements made by them in this regard. In the report of the Superintendent of Police in PE 1(A)/2004/CBI-

Hyderabad the details of enquiry had been given and apart from the said report the Calendar of Evidence – Oral, the Calendar of Evidence – Documentary, Loopholes in the existing rules and the Statements and imputations and Articles of charges in relation to certain of the S.Os. also had been incorporated. The final recommendations made by the Superintendent of Police, CBI-ACB, Hyderabad, in the first report are as hereunder :

1. RDA for Major Penalty against xxxxx, xxxxx, xxxxx and xxxxx.

2. RDA for Minor Penalty be initiated against xxxxx and xxxxx.

3. No action against xxxxx, xxxxx, xxxxx, xxxxx, xxxxx, xxxxx and xxxxx as they are all private persons.

Further, it is suggested that Chairman, Railway Recruitment Board, Secunderabad, be advised to take the following additional precautions while setting question papers in order to avoid leakage:

a. Password may be given to all confidential files stored in computer to prevent unauthorized access of files.

b. Persons whose services are utilized for preparing such confidential documents should be trustworthy and their track record may be verified before entrusting such sensitive jobs.

c. Answers to the question papers may be retained with the Chairman till the valuation is conducted.

Such measures are urgently required to be adopted since, of late, malpractices in examinations conducted by Railway Recruitment Board, Secunderabad, have become very common, and this is leading to erosion of credibility of the organization apart from causing huge wastage of resources."

In the 2nd report of the Superintendent of Police, CBI : SPE, Hyderabad it was recommended as hereunder :

“In view of the above, it is recommended that :

i. Action as deemed fit may be taken against xxxxxx.

ii. The Chairman, RRB, may be cautioned to be more careful in future while awarding contracts to firms for evaluation of answer sheets.

iii. The firms xxxxx and xxxxx may be banned from entering into any contract with Railway Department in future.

iv. A complaint may be filed with the local Police against the persons responsible for tampering with the answer sheets.”

The stand taken even by the Railways is that these first and the second reports relating to the C.B.I. had not been relied upon since the investigation was in progress and except the Vigilance Report no other report was available at the relevant point of time. It was also further explained that that was the reason why in the reply affidavit filed before the Tribunal by the Railways, the ground of leakage and the ground of impersonation had not been specifically pleaded except the ground of only mass copying at certain examination centers. On a careful scrutiny of the arrangement of the examination centers and the dates on which the examinations had been spread over and the number of candidates who had appeared to these examinations and the declared results, the specific stand taken by the Railways that there was large scale of mass copying at certain

examination centers by virtue of which the impugned decision had been taken definitely cannot be sustained since these examinations were conducted at different centers and on different dates and there was jumbling of questions. On a careful scrutiny of the number of candidates who had been successful in the examination, the alleged mass copying and the resultant benefit said to have been derived by the candidates cannot be believed. It is no doubt true that in the Vigilance Report certain statements had been referred to but however on a close scrutiny of the report, the controversy virtually boils down to identifying the 62 candidates who are said to have been impersonated at the examinations. No doubt the exhaustive list relating to all these candidates had not been furnished and the picture in this regard is not clear. Whether the Vigilance Report had been referred to or not, in the light of the specific stand taken by the Railways, prima-facie it may be taken that in view of the impersonation of 62 candidates well detected the said decision had been taken. As already referred to supra, the first and second reports of C.B.I. were not available at all at the relevant point of time. The mass copying is said to be only at certain examination centers. It may be pertinent to note that the examinations were held on several dates and several candidates had appeared. Since it is very difficult to detect or pin point who were the candidates benefited because of this large scale irregularities, the Railways had taken the stand that the

decision to conduct re-examination had been taken. Whether this action in the facts and circumstances can be said to be a justifiable one is the question. I n **UNION OF INDIA AND OTHERS Vs. RAJESH P.U., PUTHUVALNIKATHU AND ANOTHER** the Apex Court while dealing with the selection and recruitment process and cancellation thereof en bloc, at para-6, observed:

> "On a careful consideration of the contentions on either side in the light of the materials brought on record, including the relevant portions of the Report said to have been submitted by the Special Committee constituted for the purpose of inquiring into the irregularities, if any, in the selection of candidates, filed on our directions - which report itself seems to have been also produced for the perusal of the High Court, there appears to be no scope for any legitimate grievance against the decision rendered by the High Court. There seems to be no serious grievance of any-malpractices as such in the process of written examination - either by the candidates or by those who actually conducted them. If the Board itself decided to dictate the questions in loud speaker in English and Hindi and none of the participants had any grievance in understanding them or answering them, there is no justification to surmise at a later stage that the time lapse in dictating them in different languages left any room or scope for the candidates to discuss among them the possible answers. The posting of Invigilators for every ten candidates would belie any such assumptions. Even that apart, the Special Committee constituted does not appear to have condemned that part of the selection process relating to conduct of written examination itself, except noticing only certain infirmities only in the matter of valuation of answer sheets with reference to correct answers and allotment of marks to answers of some of the questions. In addition thereto, it appears the Special Committee has extensively scrutinized and reviewed situation by re-evaluating the answer sheets of all the 134 successful as well as the 184 unsuccessful candidates and ultimately found that except 31 candidates found to have been declared successful though they were not really entitled to be so declared successful and selected for appointment. There was

> no infirmity whatsoever in the selection of the other successful candidates than the 31 identified by the Special Committee. In the light of the above and in the absence of any specific or categorical finding supported by any concrete and relevant material that widespread infirmities of all pervasive nature, which could be really said to have undermined the very process itself in its entirety or as a whole and it was impossible to weed out the beneficiaries of one or other of irregularities, or illegalities, if any, there was hardly any justification in law to deny appointment to the other selected candidates whose selections were not found to be, in any manner, vitiated for any one or other reasons. Applying an unilaterally rigid and arbitrary standard to cancel the entirety of the selections despite the firm and positive information that except 31 of such selected candidates, no infirmity could be found with reference to others, is nothing but total disregard of relevancies and allowing to be carried away by irrelevancies, giving a complete go bye to contextual considerations throwing to winds the principle of proportionality in going farther than what was strictly and reasonably required to meet the situation. In short, the Competent Authority completely misdirected itself in taking such an extreme and unreasonable decision of cancelling the entire selections, wholly unwarranted and unnecessary even on the factual situation found too, and totally in excess of the nature and gravity of what was at stake, thereby virtually rendering such decision to be irrational."

It is no doubt true that the learned Senior Standing Counsel representing the Railways made a serious attempt to distinguish the said decision on facts in the light of the scrutiny made by the Special Committee and the number of candidates involved in such selection process. But however the principle had been clearly enunciated by the Apex Court. In **UNION OF INDIA Vs. ANAND KUMAR PANDEY** while dealing with the conduct of examination and selection and appointment and requiring the selected candidates to take re-examination afresh on account of large scale copying, it was held by the Apex Court :

“The Railway Recruitment Board, Patna invited applications for selection and recruitment to various posts of non-technical popular categories in the Eastern Railway. The selection was to be made as a result of written examination and a viva voce test. A large number of candidates including the respondents appeared in the written test from various centers in the city of Katihar. All the respondents, in the appeal herein, sat from the written examination at Centre No.15. They qualified in the written examination as well as in the viva voce test and their names were included in the panel of selected candidates which was published. On a complaint of mass copying at Centre No.115, the railway authorities conducted an inquiry and found the complaint to be correct. The inquiry report revealed that overall pass percentage in the written examination for all the centers at Katihar was 0.6% whereas the pass percentage in two rooms at Centre No.115 alone was 45.4%. Two of the candidates, who had secured the highest marks in that center, were found to have given identical “wrong and correct answers”. There were allegations in the complaint, of leakage of the paper and supply answers to these two candidates. There was evidence to the effect that examination started late and in the examination hall chits were being supplied to the particular candidates. The railway authorities decided to subject the 35 candidates, who had qualified the written test from Centre No.115, to a fresh examination. The Central Administrative Tribunal set aside this decision of the railway authorities as violative of rules of natural justice.

The rules of natural justice cannot be put in a straight-jacket. Applicability of these rules depends upon the facts and circumstances relating to each particular given situation. The purpose of a competitive examination is to select the most suitable candidates for appointment to public services. It is entirely different from an examination held by a college or university to award degrees to the candidates appearing at the examination. Even if a candidate is selected he may still be not appointed for a justifiable reason. In the present case the railway authorities have rightly refused to make appointments on the basis of the written examination wherein unfair means were adopted by the candidates. No candidate had been debarred or disqualified from taking the examination. To make sure that the deserving candidates are selected, the respondents have been asked to go through the process of written examination once again. Hence there is no violation of the rules of natural justice in any manner in the facts and circumstances of this case.”

Reliance also was placed on **BIHAR S.E. BOARD Vs. SUBHAS CHANDRA** wherein it was held :

> "Where the Bihar School Examination Board on being satisfied that a vast majority of the examinees at a particular center have adopted unfair means, it is not necessary for the Board, before cancelling the examination as a whole at that center, to give an opportunity to all the candidates to represent their cases. The Board had not charged any one with unfair means so that he could claim to defend himself. The examination was vitiated by adoption of unfair means on a mass scale. In these circumstances it would be wrong to insist that the Board must hold a detailed inquiry into the matter and examine each individual case to satisfy itself which of the candidates had not adopted unfair means. The examination as a whole had to go.
>
> To make such decisions depend upon a full fledged judicial inquiry would hold up the functioning of such autonomous bodies as Universities and School Boards. The Universities and the School Boards are responsible for their standards and the conduct of examinations. The essence of the examinations is that the worth of every person is appraised without any assistance from an outside source. If at a center the whole body of students receive assistance and manage to secure success in the neighbourhood of 100% when others at other centers are successful only at an average of 50% it is obvious that the university or the Board must do something in the matter. It cannot hold a detailed quasi-judicial inquiry with a right to its alumni to plead and lead evidence etc. before the results are withheld or the examinations cancelled. If there is sufficient material on which it can be demonstrated that the university was right in its conclusion that the examinations ought to be cancelled then academic standards require that the university's appreciation of the problem must be respected. It would not do for the Court to say that you should have examined all the candidates or even their representatives with a view to ascertaining whether they had received assistance or not. To do this would encourage indiscipline if not also perjury."

Strong reliance also was placed on **ONKAR LAL BAJAJ Vs. UNION OF INDIA** wherein the sustainability of the order en masse cancellation of allotment of retail outlets for petroleum products merely on the basis of newspaper report that few of allottees were

allotted these dealership/distributorship on account of political connections and patronage, had been dealt with in detail. Further, strong reliance was placed on **UNION OF INDIA AND OTHERS Vs. O. CHAKRADHAR** while dealing with aspect of the cancellation of selection on the ground of illegalities and irregularities in conducting the selection and the procedure thereof and individual notices to candidates when may not be necessary, held :

> "In 1995, the Railway Recruitment Board issued an advertisement for recruitment to the posts of Junior Clerk-cum-Typist. The respondent was selected and appointed to one of the said posts in 1996. About three years later, the Railway Board found that the candidates had not been subjected to typewriting test which was an essential requirement and that there were also certain other irregularities in the conduct of the examination. After considering the matter totally and taking into account the report of CBI and serious nature of irregularities, the Railway Board took a decision to cancel the entire panel and to terminate the services of all the candidates appointed. Accordingly, the service of the respondent was terminated by an order dated 18-8-1999. CAT set aside the termination order for violation of principles of natural justice and the High Court upheld that decision. Opposing the appeal, the respondent contended that he ought to have been intimated of the exact and precise nature of the irregularity or misconduct, if any, committed by him to enable him to explain the position. He further contended that omission to hold an enquiry in the present case violated Article 311. The respondent added that his name was not amongst those against whom CBI had recommended action. That, therefore his services were not liable to the terminated.
>
> The nature and the extent of illegalities and irregularities committed in conducting a selection have to be scrutinized in each case so as the come to a conclusion abut future course of action to be adopted in the matter. If the mischief played is so widespread and all pervasive, affecting the result, so as to make it difficult to pick out the persons who have been unlawfully benefited or wrongfully deprived of their selection, it will neither be possible nor necessary to issue individual show

cause notices to each selectee. The only way out would be to cancel the whole declaration. Motive behind the irregularities committed also has its relevance.

As per the report of CBI the whole selection smacks of mala fides and arbitrariness. All norms are said to have been violated with impunity at each stage viz., right from the stage of entertaining applications, with answer-sheets while in the custody of Chairman, in holding typing test, in interview and in the end while preparing the final result. In such circumstances it may not be possible to pick out or choose a few persons in respect of whom alone the selection could be cancelled and their services in pursuance thereof could be terminated. The illegality and irregularity are so intermixed with the whole process or selection that it becomes impossible to sort out the right from the wrong or vice versa. The result of such a selection cannot be relied or acted upon. It is not a case where a question of misconduct on the part of a candidate is to be gone into but a case where those who conducted the selection have rendered it wholly unacceptable. The present case, therefore, is not one of those cases where it may have been possible to issue any individual notice of misconduct to each selectee and seek his explanation in regard to the large-scale, widespread and all-pervasive illegalities and irregularities committed by those who conducted the selection which may of course possibly be for the benefit of those who have been selected but there may be a few who may have deserved selection otherwise, but it is difficult to separate the cases of some of the candidates from the rest even if there may be some. The Railway Board's decision to cancel the selection cannot be faulted with and the order of termination of the services of the respondent is upheld".

16. Mass copying is said to have taken place only at certain centers. This Court at one stage required the Railways to furnish the details and particulars of the examination centers on varied dates, number of candidates who appeared for examination at the respective centers, percentage of pass and other particulars with a view to evaluate the ground of malpractice in general and the ground of mass copying in particular. But however the said particulars had not been furnished by

the Railways as on today. As referred to supra, the Vigilance Report had not been referred to while taking the decision. The C.B.I. Reports 1 and 2 are subsequent thereto since the investigation alone had been in progress at the relevant point of time. The examinations had been conducted on different dates and at different centers. Even a few statements which are said to have been recorded may not be of such a magnitude or proportionality so as to take the drastic decision of making the selected candidates to take up the examination again, that too limiting the examination to only a limited candidates not open to all. Though certain names had been referred to in the reports, the reports are vague and not clear. Even otherwise on this ground, ordering cancellation and taking a decision to conduct re-examination may not be just, reasonable, rational and proper in the facts and circumstances of the case. Strong reliance was placed on certain news items and press reports and the contents thereof had been specifically pointed out. I n **S.N.BALAKRISHNA Vs. FERNANDEZ** while dealing with a case under Representation of Peoples Act 1951 it was observed :

> "A news item without any further proof of what had actually happened through witnesses is of no value. It is at best a second-hand secondary evidence. It is well known that reporters collect information and pass it on to the editor who edits the news item and then publishes it. In this process the truth might get perverted or garbled. Such news items cannot be said to prove themselves although they may be taken into account with other evidence if the other evidence is forcible. A fact has first to be alleged and proved and then newspaper reports can be taken in support of it but not independently."

In **LAXMI RAJ SHETTY Vs. STATE OF TAMIL NADU** it was held that judicial notice cannot be taken of the facts stated in a newspaper being in the nature of hear say secondary evidence unless proved by evidence aliunde and report in a newspaper is only hearsay evidence and newspaper is not one of the documents referred to in Section 78(2) of the Indian Evidence Act 1872 by which an allegation of fact can be proved. Dehors the newspaper reports, it is suffice to state that the ground of mass copying had not been well substantiated by the respondents/Railways.

17. Impersonation: As already referred to supra, the Vigilance Report no doubt specifies that impersonation of 62 candidates at least had been identified. No doubt all the names and the details had not been furnished except referring to certain of the statements. The C.B.I. Reports 1 and 2 no doubt refer to several irregularities and also certain statements which had been recorded in relation thereto. It is pertinent to note that this ground of impersonation had not been pleaded in the reply affidavit before the Tribunal and it is an improvement made before this Court in the counter affidavit. Though this plea was not taken, there is some material available on record, but however these reports had not been furnished to the Counsel representing the writ petitioners at least at this stage. Right to information falls within the meaning of freedom of expression and unless the reports are confidential or privileged which had not been

claimed by the Railways in the present case, the Counsel may be entitled to the copies of these reports. This Court is not inclined to observe any further in this regard.

18. Leakage of question papers : This ground also had been specifically pleaded in the counter affidavit basing on the reports referred to supra and the same had not been pleaded before the Tribunal. It is needless to say that the opposite party cannot be taken by surprise by taking such a plea before the writ Court for the first time without taking such a plea before the Tribunal. Even otherwise, on a careful scrutiny of the reports, material available relating to the leakage of question papers is limited and has no reasonable nexus to the alleged large scale irregularity as canvassed by the Railways.

19. Malafides : Certain submissions were made that the decision making process is vitiated even by malafides. Except making vague allegation no specific particulars relating to the ground of malafides had been averred or at least established and hence the decision cannot be said to have been vitiated on the ground of malafides.

20. Politically motivated decision : Submissions at length were made to convince this Court that the decision making process had been vitiated by virtue of pressure from the political quarters due to the change of Government at the Center. Submissions relating to a particular ground without proper factual foundation and supporting

material to substantiate the same would be of no consequence.

Before the Tribunal in para-6(f) it was pleaded :

> "…..The Applicants have reliably learnt that the 2nd respondent has resorted to conduct second stage written examination only with a malafide intention to select the candidates of his choice and the choice of his political bosses but nothing else. Merely because there is a change of government in the center, the 2nd respondent cannot nullify the selections already made. Apart from that the 2nd respondent is not at all justified to conduct second stage written examination for about 15000 candidates who were not qualified for the Physical Efficiency Test. Assuming for a moment that the 2nd respondent has got power to conduct second stage written examination, he has to confine the said examination only to 2690 candidates who have been qualified from the written examination for the purpose of Physical Efficiency Test…..".

In the reply affidavit filed in this regard before the Tribunal while answering para-6(f) it was pleaded as hereunder :

> "In reply to para-6(f), it is submitted that the allegation that no proper enquiry or investigation by a competent authority is done is false and baseless and malafide. In fact, the Enquiry and Investigation was done by competent authority the Vigilance and CBI and only on the basis of the report the decision to hold the II stage examination was taken. Where is the question of change of Government or political motivation. The allegations are baseless. It is wrong to stage that no proper enquiry or investigation by competent authority was done. In fact on the basis of the report of the investigation by competent authority i.e., (Vigilance & CBI) that this decision was arrived at. Since the decision for holding II stage was on the basis of investigation by competent authority, the question of malafide intention does not arise. The report (Annexure-V) is produced in sealed cover for perusal of Court…..".

Likewise, in the affidavit filed in support of the Writ Petition, at para-7 it was pleaded :

> ".....The petitioners have reliably learnt that the 2nd respondent has resorted to conduct the second stage written examination only with a malafide intention to select the candidates of his choice and the choice of his political bosses but nothing else. Merely because there is a change of government in the center, the 2nd respondent cannot nullify the selections already made. Apart from that the 2nd respondent is not at all justified to conduct second stage written examination for about 15000 candidates who were not qualified for the Physical Efficiency Test. Assuming for a moment that the 2nd respondent has got power to conduct second stage written examination, he has to confine the said examination only to 2690 candidates who have been qualified from the written examination for the purpose of Physical Efficiency Test....." .

At para-5 of the counter affidavit before this Court it was specifically pleaded :

> "As has already been set out in the preceding paragraphs, decision was taken in principle to hold re-examination as early as in May, 2004 and the same was released to "Press" for information of the candidates. Therefore, it is not correct to say that RRB or Railway Board kept silent in the matter and took sudden decision in August, 2004 to hold the second stage examination. The averment in the said paragraph casting aspersions by terming the decision to hold second stage examination as baseless and politically motivated, is strongly refuted as the same is untrue and incorrect....".

21. In the light of the pleadings referred to supra, in the absence of any other supporting material to establish that the decision making process is vitiated by any political motivation, it cannot be said that this ground is well substantiated by the writ petitioners.

22. <u>Policy decision :</u> Yet another feeble attempt was made by the learned Standing Counsel for Railways that the decision to conduct re-examination would fall within the meaning of policy decision and this Court cannot interfere in such a case. In **KRISHNA KAKKANTH Vs. GOVERNMENT OF KERALA** it was held :

> "To ascertain unreasonableness and arbitrariness in the context of Article 14 of the Constitution, it is not necessary to enter upon any exercise for finding out the wisdom in the policy decision of the State Government. It is immaterial if a better or more comprehensive policy decision could have been taken. It is equally immaterial if it can be demonstrated that the policy decision is unwise and is likely to defeat the purpose for which such decision has been taken. Unless the policy decision is demonstrably capricious or arbitrary and not informed by an reason whatsoever or it suffers from the vice of discrimination or infringes any statute or provisions of the Constitution, the policy decision cannot be struck down. It should be borne in mind that except for the limited purpose of testing a pubic policy in the context of illegality and unconstitutionality, Court should avoid "embarking on uncharted ocean of public policy".

Reliance also was placed on **CHAIRMAN AND MD BPL LIMITED Vs. S.P.GURURAJ** and **VIJAY LAKSHMI Vs. PUNJAB UNIVERSITY .** There cannot be any controversy in relation to the limitations of exercising the power of judicial review in interfering with a policy decision. But however, this is a matter where a decision had been taken to conduct re-examination again which cannot fall within the meaning of policy decision and hence these submissions made at length on this ground deserve to be rejected.

23. Other malpractices, if any based on the reports : The other malpractices, if any based on these reports also cannot be taken into consideration seriously in the light of the respective pleadings of the parties at the earliest point of time before the Tribunal.

24. Principles of natural justice : It is no doubt true that in a case of this nature, to serve individual notices and to give individual hearing could be both impracticable and impossible. I n **BENNY T.D. Vs. REGISTRAR OF COOP. SOCIETIES** while dealing with direct recruitment, reserved quota and relaxation of minimum standard and the statutory rules in relation thereto in the context of Co-operative Banks under Kerala Co-operative Societies Act, 1969, it was held that the report of the public inquiry Commission that selection was not fair and the plea that public interest demands that selection should be annulled even though report has not been given to employer or appointees had been rejected as it would amount to gross violation of principles of natural justice. No doubt strong reliance was placed on the decision referred (3) supra. Reliance also was placed on the decision referred (2) supra**.** It is true that when numerous persons are involved and when the allegation is one of mass copying or other malpractice during examinations, in view of the impracticability to observe the principles of natural justice of serving individual notices, the same may be dispensed with. But however, in the present case, though the lis was commenced by the writ petitioners by moving the

Tribunal and subsequent thereto aggrieved by the relief being negatived, by approaching this Court by filing Writ Petitions. Despite the specific insistence by the Counsel representing the writ petitioners though no privilege had been claimed in relation to these reports, the copies had not been furnished for reasons best known to the Railways.

2 5 . <u>Power and limitations of exercising judicial review :</u>

Submissions at length were made relating to the limitations of judicial review in exercising the certiorari jurisdiction by this Court when the orders of the Tribunal are questioned by way of Writ Petitions. In **SYED T.A. NAQSHBANDI Vs. STATE OF J & K** while dealing with the nature, extent and possibility of judicial review of the decision making process it was held at paras 7 and 8 hereunder :

> "We have carefully considered the submissions of the learned Counsel appearing on either side, in the light of the governing position of law and the material facts placed on record. Much of the grievance sought to be vindicated seems to be merely born out of certain baseless assumptions and incorrect understanding of event, which took place with their own personal perception of the same, carried away also more by the grievance in not being favoured with due recognition of their so-called entitlements. The grievance in this regard is sought to be further justified by adopting one or other circumstances in a manner to suit their own stand rather than viewing the relevant facts in their proper perspective or on an objective process of understanding. Assumed grievances apart, it must be sufficiently substantiated to have firm or concrete basis on properly established facts and further proved to be well justified in law, for being countenanced by the court in exercise of its powers of judicial review. As has often been reiterated by this Court, judicial review is permissible only to the extent of finding whether the process in

reaching the decision has been observed correctly and not the decision itself, as such. Critical or independent analysis or appraisal of the materials by the Courts exercising powers of judicial review unlike the case of an appellate Court would neither be permissible nor conducive to the interests of either the officers concerned or the system and institutions of administration of justice with which we are concerned in this case, by going into the correctness as such of ACRs or the assessment made by the Committee and approval accorded by the Full Court of the High Court.

Reliance placed upon the recommendations of Justice Jagannatha Shetty Commission or the decision reported in *All India Judges' Assn. V. Union of India* (2002) 4 SCC 247) or even the resolution of the Full Court of the High Court dated 27-4-2002 is not only inappropriate but a misplaced one and the grievances espoused based on this assumption deserve a mere mention only to be rejected. The conditions of service of members of any service for that matter are governed by statutory rules and orders, lawfully made in the absence of rules to cover the area which has not been specifically covered by such rules, and so long as they are not replaced or amended in the manner known to law, it would be futile for anyone to claim for those existing rules/orders being ignored yielding place to certain policy decisions taken even to alter, amend or modify them. Alive to this indisputable position of law only, this Court observed at SCC p.273, para 38, that "we are aware that it will become necessary for service and other rules to be amended so as to implement this judgment". Consequently, the High Court could not be found at fault for considering the matters in question in the light of the Jammu and Kashmir Higher Judicial Service Rules, 1983 and the Jammu and Kashmir District and Sessions Judges (Selection Grade Post) Rules, 1968 as well as the criteria formulated by the High Court. Equally, the guidelines laid down by the High Court for the purpose of adjudging the efficiency, merit and integrity of the respective candidates cannot be said to be either arbitrary or irrational or illegal in any manner to warrant the interference of this Court with the same. Even dehors any provision of law specifically enabling the High Courts with such powers in view of Article 235 of the Constitution of India, unless the exercise of power in this regard is shown to violate any other provision of the Constitution of India or any of the existing statutory rules, the same cannot be challenged by making it a justiciable issue before courts. The grievance of the petitioners, in this regard, has no merit of acceptance."

In **INDIAN RAILWAY CONSTRUCTION CO. LTD. Vs. AJAY KUMAR** it was held at paras 13 to 15 and 17 and 18 as hereunder :

> "One of the points that falls for determination is the scope for judicial interference in matters of administrative decisions. Administrative action is stated to be referable to the broad area of governmental activities in which the repositories of power may exercise every class of statutory function of exclusive, quasi-legislative and quasi-judicial nature. It is trite law that exercise of power, whether legislative or administrative, will be set aside if there is manifest error in the exercise of such power of the exercise of the power is manifestly arbitrary. (See *State of U.P. v. Renusagar Power Co.* (1988) 4 SCC 59). At one time, the traditional view in England was that the executive was not answerable where its action was attributable to the exercise of prerogative power. Professor de Smith in his classical work *Judicial Review of Administrative Action,* 4th Edn., at pp.285-87 states the legal position in his own terse language that the relevant principles formulated by the courts may be broadly summarized as follows. The authority in which a discretion is vested can be compelled to exercise that discretion, but not in any particular manner. In general, a discretion must be exercised only by the authority to which it is committed. That authority must genuinely address itself to the matter before it; it must not act under the dictates of another body or disable itself from exercising a discretion in each individual case. In the purported exercise of its discretion, it must not do what it has been forbidden to do, nor must it do what it has not been authorized to do. It must act in good faith, must have regard to all relevant considerations and must not be influenced by irrelevant considerations, must not seek to promote purposes alien to the letter or to the spirit of the legislation that gives it power to act, and must not act arbitrarily or capriciously. These several principles can conveniently be grouped in two main categories : (i) failure to exercise a discretion and (ii) excess or abuse of discretionary power. The two classes are not, however, mutually exclusive. Thus, discretion may be improperly fettered because irrelevant considerations have been taken into account, and where an authority hands over its discretion to another body it acts ultra vires.

The present trend of judicial opinion is to restrict the doctrine of immunity from judicial review to those class of cases which relate to deployment of troops, entering into international treaties, etc. The distinctive features of some of these recent cases signify the willingness of the Courts to assert their power to scrutinize the factual basis upon which discretionary powers have been exercised. One can conveniently classify under three heads the grounds on which administrative action is subject to control by judicial review. The first ground is 'illegality' the second 'irrationality, and the third 'procedural impropriety.' These principles were highlighted by Lord Diplock in Council of Civil Service Unions v. Minister for the Civil Service (1984 (3) All ER 935), (commonly known as CCSU case). If the power has been exercised on a non-consideration or non-application of mind to relevant factors, the exercise of power will be regarded as manifestly erroneous. If a power (whether legislative or administrative) is exercised on the basis of facts which do not exist and which are patently erroneous, such exercise of power will stand vitiated. (See Commissioner of Income- tax v. Mahindra and Mahindra Ltd. (AIR 1984 SC 1182). The effect of several decisions on the question of jurisdiction have been summed up by Grahame Aldous and John Alder in their book "Applications for Judicial Review, Law and Practice" thus :

> "There is a general presumption against ousting the jurisdiction of the Courts, so that statutory provisions which purport to exclude judicial review are construed restrictively. There are, however, certain areas of governmental activity, national security being the paradigm, which the Courts regard themselves as incompetent to investigate, beyond an initial decision as to whether the Government's claim is bona fide. In this kind of non-justiciable area judicial review is not entirely excluded, but very limited. It has also been said that powers conferred by the Royal Prerogative are inherently unreviewable but since the speeches of the House of Lords in Council of Civil Service Unions v. Minister for the civil service this is doubtful. Lords Diplock, Seaman and Roskili appeared to agree that there is no general distinction between powers, based upon whether their scarce is statutory or prerogative but that judicial review can be limited by the subject-matter of a particular power, in that case national security. May prerogative powers are in fact concerned with sensitive, non-justiciable areas, for example, foreign affairs, but some are reviewable in principle, including the prerogatives relating to the civil service where national security is not involved. Another non-justiciable

power is the Attorney General's prerogative to decide whether to institute legal proceedings on behalf of the public interest." (Also see Padfield v. Minister of Agriculture, Fisheries and Food (LR (1968) AC 997)).

The Court will be slow to interfere in such matters relating to administrative functions unless decision is tainted by any vulnerability enumerated above : like illegality, irrationality and procedural impropriety. Whether the action falls within any of the categories has to be established. Mere assertion in that regard would not be sufficient.

.....

Before summarizing the substance of the principles laid down therein as shall refer to the passage from the judgment of Lord Greene in Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn. (KB at p. 229 : All ER p. 682). It reads as follows :

"It is true that discretion must be exercised reasonably. Now what does that mean? Lawyers familiar with the phraseology used in relation to exercise of statutory discretions often use the word 'unreasonable' in a rather comprehensive sense. It has frequently been used and is frequently used as a general description of the things that must not be done. For instance, a person entrusted with a discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules, he may truly be said, and often is said to be acting 'unreasonably.' Similarly, there may be something so absurd that no sensible person could even dream that it lay within the powers the authority.....In another, it is taking into consideration extraneous matters. It is unreasonable that it might almost be described as being done in bad faith; and in fact, all these things run into one another." Lord Greene also observed (KB p. 230 : All ER p. 683)

"……it must be proved to be unreasonable in the sense that the Court considers it to be a decision that no reasonable body can come to. It is not what the Court considers unreasonable.....The effect of the legislation is not to set up the Court as an arbiter of the correctness of one view over another."

Therefore, to arrive at a decision on "reasonableness" the Court has to find out if the administrator has left out relevant factors or taken into account irrelevant factors. The decision of the administrator must have been within the four

corners of the law, and not one which no sensible person could have reasonably arrived at, having regard to the above principles, and must have been a bona fide one. The decision could be one of many choices open to the authority but it was for that authority to decide upon the choice and not for the Court to substitute its view."

26. Even while exercising the discretion it must be exercised in a rational manner and reasonably. It is no doubt true that the decisions governing this field are too numerous and well defined limitations of the exercise of judicial review had been laid down and the settled principles need not be further repeated. Reliance also was placed on **UNION OF INDIA Vs. CHARLES DAVID .**

27. In the light of the foregoing discussion, viewed from any angle, this Court is of the considered opinion that the decision taken by the Railways to conduct re-examination even for the limited number of candidates, is arbitrary, irrational, since the discretion was not exercised properly and the same had been exercised unreasonably. Even otherwise at the relevant point of time, the material available also was highly insufficient, but however the C.B.I. Reports 1 and 2 had been relied upon which came into existence subsequent thereto during the pendency of the litigation. It is no doubt true that the selection process had been completed and appointment orders are yet to be issued. It is also true that in service jurisprudence the writ petitioners cannot claim any legal right as such for appointment, but only a right to be considered for appointment can be claimed. Be that as it may, in view of the specific information given in the Vigilance Report relating to impersonation, though such plea was not taken at the earliest point of time identifying the 62 candidates in the interest of

justice, though it is not possible to give a pre-decisional hearing to such 62 candidates identified, if any, they are inclusive in the already selected candidates, a post decisional hearing can be given to take appropriate decision as far as these candidates are concerned. It is made clear except the 62 candidates who are said to have been clearly identified by virtue of the report, the decision making process relating to re-examination in relation to the other candidates is arbitrary, unjust, irrational, unreasonable, being violative of both Articles 14 and 21 of the Constitution of India and hence the said impugned action is liable to be quashed in relation to all the other selected candidates except the 62 candidates referred to supra. As far as the identified 62 candidates are concerned who are said to have impersonated, taking the number of candidates into consideration, the competent authority to put on individual notice of these candidates, hear them and take appropriate decision at the earliest point of time in this regard. As already referred to supra the picture is not clear relating to the names of these candidates and the other details. The respondents may have to work out the said details within a reasonable time and finalise the selections and issue the resultant appointment orders to all other candidates except the 62 candidates referred to supra and also further proceed in relation to the 62 candidates also in accordance with the procedure indicated above. It is needless to say that not only the writ petitioners but also similarly placed persons would be entitled to the benefit or the reliefs which are being given by this Court. Hence it is needless to say that the application W.P.M.P.No.2461/2005 filed to implead the parties may have to be allowed despite the counter affidavit in this regard filed resisting the same and accordingly the same is hereby allowed.

28. With the above directions, the Writ Petitions are allowed to the extent indicated above. No order as to costs.

_____

Justice G.Bikshapathy

_____

Justice P.S. Narayana

Date : -3-2005

L.R. copy to be marked : YES / No

AM

Rule Nisi have been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Fifteenth day of March Two Thousand and Five.

ASSISTANT REGISTRAR

To:

One fair copy to Hon'ble Sri Justice G.Bikshapathy (for his Lordship's kind perusal)

One fair copy to Hon'ble Sri Justice P.S. Narayana (for his Lordship's kind perusal)

1. The Chairman, all Railway Recruitment Boards, Indian Railways,

   New Delhi.

2 The Chairman, Railway Recruitment Board, South Central Railway,

   Lalaguda, Secunderabad.

3. 2 C.Cs. to Sri S.R. Ashok, Standing Counsel for Railways,

High Court of A.P.

High Court Buildings,

Hyderabad.

4. **8 L.R. copies**

5. The Under Secretary, Union of India, Ministry of Law, Justice

and Company Affairs, New Delhi.

6. The Secretary, A.P. Advocates Association Library, High court

Buildings, Hyderabad.

7. Two C.D. copies